

ASHBEL MASON.

[To accompany bill H. R. No. 420.]

JANUARY 17, 1838.

Mr. LEADBETTER, from the Committee on Private Land Claims, made the following

REPORT :

The Committee on Private Land Claims, to which was referred the papers in the case of Ashbel Mason, report :

That, by his statement, made under oath, it appears that he enlisted in the Connecticut line for and during the war, in the month of June, 1777; and that he served in several companies and regiments, among which was Captain Chapman's company of the 5th regiment, commanded by Colonel Heman Swift, and in Colonel Bradley's regiment; also, in a company of light infantry under the command of French officers: was at the surrender of Cornwallis, at Yorktown, after which he was returned to Colonel Swift's regiment, in which he served out his time, and at the close of the war was honorably discharged. In support of this statement he has not chosen to rely upon his own veracity, and the records of the War Department, by which he is fully sustained up to February, 1782, but he has introduced the deposition of Samuel Waugh, who officiated in the character of an orderly sergeant in "Captain Chapman's company;" and that part of it which refers to the services of Mason, near and at the close of the war, is herewith embodied in this report.

DEPOSITION.

"During the last year of the war said Mason was taken sick, and was permitted to go home on a furlough. Near the close of the war a proclamation was issued requiring those who were absent to return and join the army. Upon this proclamation said Mason returned and rejoined his company and was mustered. He was then out of health. And I have a distinct recollection of his so returning, and that it was but a short time before peace was declared. I was the orderly sergeant of said Captain Chapman's company, and it was my duty to make daily returns of said company. And the fact that said Mason did so rejoin the company is fresh in my mind, as is also the fact that the captain said, in my hearing, if Mason did not return he must be returned as a deserter. And I also remember, that when said Mason did rejoin the company some friend came with him to assist him. Dated Litchfield, June 19th, 1837.

"SAMUEL WAUGH."

STATE OF CONNECTICUT, }
Litchfield county, } ss.

LITCHFIELD, *June 19, 1837.*

Personally appeared Samuel Waugh, to me well known, and who is entitled to full credit, and made oath to the truth of the foregoing deposition by him subscribed, before me,

GEORGE C. WOODRUFF,
Justice of the Peace.

If full reliance is to be placed upon the foregoing statements, Mason is not only entitled to the promised gratuity of eighty dollars, but a bounty land warrant for one hundred acres of land, which he now claims under an appeal from the decision of the War Department to the justice of Congress. This claim was rejected by the proper officer of the Department, upon the ground that the applicant did not serve until the close of the war, which was necessary to have done to have entitled him to a bounty land warrant. In a letter from that officer of the 10th of July, 1837, it is stated that "evidence is found which satisfactorily proves that his absence from the army (to which he never returned from the time he received his furlough, for twenty-four days, in February, 1782,) was occasioned by sickness, and not *desertion*; that he did not return to the army is clearly shown by the certificate of his physician, Doctor Seth Bird, dated the 29th May, 1783, who, at that date, certified that he, Mason, was then, and had been, from the time of his furlough, unfit for military duty in consequence of continued rheumatism." And again, "that his name does not appear upon the records of the Connecticut line among those entitled to bounty lands."

The statements contained in that letter are not introduced for the purpose of contrasting opinions, or of reflecting upon the decision of that officer in the smallest degree. But to wholly discard the testimony of Waugh, narrating so many striking incidents, and corroborated in almost every particular, with a character sustained for credibility, merely on the strength of an inference which might be drawn from the certificate of Doctor Bird, in consequence of its bearing date at so short a period before the discharge of the army took place, would be to violate the plain rules of evidence. But on the contrary, as he had a great sufficiency of time to return, and taking into consideration the patriotism and zeal of the soldiery of that day, and bearing in mind that he had remained at his post during the most perilous and important part of the struggle; nothing to fear in returning under the generous call of the proclamation, but every inducement to save his reputation as a soldier from the disgrace of being returned as a *deserter*, the committee are strongly inclined to favor the belief that he did return to the army, "unfit for military duty" as he was. Neither should it be considered as conclusive against him because his name does not appear upon the records among those entitled to bounty lands. Those who are conversant with those scenes know, and those who are not can easily imagine, or rather it would be a matter of surprise, that amid the hurry, bustle, confusion, and anxiety, which necessarily prevails upon the disbanding of an army which had been for years in absence from their homes, their friends, and relatives, enduring toils and privations of the severest character, if there should not be one soli-

tary instance when a failure to make a correct return should not take place.

But in taking either alternative which this case presents, it would be a matter of much difficulty to distinguish between them in such a manner as to deprive him of his claim. In taking it for granted that he did not return to the army, what do the facts present? That he left the army on a furlough granted on account of his sickness; that he continued sick until the 29th May, 1783, and was then unfit for military duty, and had been from the time of furlough; and that the army was disbanded in June following, (or those who had enlisted during the war.) It also appears that he must have supported himself; for neither pay nor rations are chargeable to him, during the time he was unavoidably detained, to which, in truth, he was justly entitled. In that aspect of the case, by what rule of right can we distinguish between the equity of the claims of that soldier who has remained with the army in his sickness, and drew his pay and rations until he was discharged by the conclusion of the war, and one who was absent on furlough and detained by sickness, supporting himself, with his pay and rations stopped, until the army in like manner should be discharged? A distinction of that kind would be neither wise, politic, nor just; nor has such been the policy of this Government. There was no guilt, no breach of public duty, on the part of Mason; and although he was absent, for a time at least, beyond the limits of his furlough, yet his absence was of that kind which would bring him fully and fairly within the service of his country until the close of the war. Nor can we conceive that his situation was more desirable than the soldier in health in the ranks of the army.

Your committee, therefore, have come to the conclusion that he is entitled to full, adequate, and speedy relief, and for that purpose have reported a bill.

