

IN THE SENATE OF THE UNITED STATES.

SEPTEMBER 13, 1888.—Ordered to be printed.

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

REPORT:

[To accompany bill H. R. 10401.]

*The Committee on Military Affairs, to whom was referred the bill (H. R. 10401) for the relief of J. H. Bugg and others, having considered the same, report as follows:*

The bill authorizes the Secretary of the Treasury to pay J. H. Bugg, J. T. Guess, and Nathan Fralick for services rendered before they were mustered into the military service. The claim of Fralick, which rests on the same footing with the other two, has been considered by the War Department and decided adversely.

In view of the facts set forth in the communications from the Department hereto attached, your committee are of opinion that the bill should not pass, and they therefore recommend that it be indefinitely postponed.

WAR DEPARTMENT,  
Washington City, March 14, 1888.

SIR: In response to your request of December 12 last, indorsed on a letter to you from Mr. George W. Duvall, of Princeton, Ky., regarding the claim of Nathan Fralick for recognition as second lieutenant of Company B, Eighteenth Kentucky Cavalry, I have the honor to invite attention to the inclosed report of the 12th instant from the Adjutant-General's Office, which contains a history of the above-named regiment as desired.

Mr. Duvall's letter to you is herewith returned in accordance with your request.

Very respectfully, your obedient servant,

S. V. BENÉT,  
Brigadier-General, Chief of Ordnance,  
and Acting Secretary of War.

Hon. W. J. STONE, of Kentucky,  
*House of Representatives.*

WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,  
Washington, March 12, 1888.

SIR: I have the honor to return herewith a letter of Mr. George W. Duvall, of Princeton, Ky., relative to the claim of Nathan Fralick for recognition as second lieutenant, Company B, Eighteenth Kentucky Cavalry, referred to the Department by Hon. W. J. Stone, M. C., for the military history of that regiment, and to report as follows:

The records of this office show that on February 16, 1865, the governor of Kentucky requested to be informed whether or not special authority had been granted Lieut.

Col. Samuel Johnson, formerly of the Fifty-second Kentucky Infantry, and Col. H. T. Burge, formerly of the Forty-eighth Kentucky Infantry, to raise each a regiment, and stated that they had each recruited some 300 or 400 men, and made applications for commissions. The governor further requested that if such authority had not been granted orders be issued to consolidate the men they had recruited into a regiment.

The governor's request was on the 24th of February, 1865, referred to Lient. Col. W. H. Sidell, Louisville, Ky., superintendent volunteer recruiting service for the State of Kentucky, for investigation and report, with the information that the persons named had received no authority from this office to raise regiments, and that the governor had been so advised.

Under date of March 7, 1865, Lieutenant-Colonel Sidell reported that Lieutenant-Colonel Johnson had been granted authority to raise a regiment of cavalry, and that Colonel Burge had not received authority, but that he (Burge) had been about Owensborough, Ky., and gathered together 200 or 300 men under a pretended authority.

By letter from this office dated March 21, 1865, Lieutenant-Colonel Sidell was directed to at once organize the men enlisted by Messrs. Johnson and Burge into as many companies of cavalry as the number would allow, and to then report his action to the governor of the State that the officers might be commissioned, and also to advise with the governor and inform him it was desirable that Mr. Burge, in view of his irregular and unauthorized action in making those enlistments, should not be permitted to enter the service as a commissioned officer in any of the organizations thus formed.

On April 22, 1865, Lieutenant-Colonel Sidell reported that the men recruited by Johnson and Burge had been organized into twelve cavalry companies properly officered. The regiment so organized was called the Seventeenth Kentucky Cavalry.

It appears that the force raised by Colonel Burge was by him designated the Eighteenth Kentucky Cavalry, but nothing is found of record to show that the men were even organized into companies.

There is on file a list of names of ninety-eight men enlisted in Crittenden County, Ky., for the Eighteenth Kentucky Cavalry, of which number it appears J. H. Bugg enlisted twelve, but the name Nathan Fralick is not borne thereon.

The claim of Mr. Nathan Fralick for recognition as recruiting second lieutenant, Company B, Eighteenth Kentucky Cavalry, from October 28, 1864, to April 29, 1865, under the "Act to provide for the muster and pay of certain officers and enlisted men of the volunteer forces," approved June 3, 1884, was rejected by letter from this office dated March 16, 1887, copy herewith.

I am, sir, very respectfully, your obedient servant,

J. C. KELTON,  
Assistant Adjutant-General.

The SECRETARY OF WAR.

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WAR DEPARTMENT,  
ADJUTANT-GENERAL'S OFFICE,  
Washington, March 16, 1887.

SIR: I have the honor to acknowledge the receipt of the papers in your claim for recognition as recruiting second lieutenant, Company B, Eighteenth Regiment Kentucky Cavalry Volunteers, from October 28, 1864, to April 29, 1865, under the "Act to provide for the muster and pay of certain officers and enlisted men of the volunteer forces," approved June 3, 1884, section 1 of which is as follows:

That in all cases arising under the same any person who was duly appointed and commissioned, whether his commission was actually received by him or not, shall be considered as commissioned to the grade therein named from the date when his commission was actually issued by competent authority, and shall be entitled to all pay and emoluments as if actually mustered at such date: *Provided*, That at the date of his commission he was actually performing the duties of the grade to which he was so commissioned, or, if not so performing such duties, then from such time after the date of his commission as he may have actually entered upon such duties: *And provided further*, That any person held as a prisoner of war, or who may have been absent by reason of wounds or in hospital by reason of disability received in the service in the line of duty, at the date of his commission, if a vacancy existed for him in the grade to which so commissioned, shall be entitled to the same pay and emoluments as if actually performing the duties of the grade to which he was commissioned and actually mustered at such date: *And provided further*, That this act \* \* \* shall be construed to apply only in those cases where the commission bears date prior to June 20, 1863, or after that date when their commands were not below the minimum number required by existing laws and regulations: *And pro-*

vided further, That the pay and allowances actually received shall be deducted from the sums to be paid under this act, amended by act approved February 3, 1887, so as to authorize recognition from date of rank fixed in commission in cases where service was actually rendered.

In reply I have to inform you that under a conditional appointment and the order providing therefor, the officer did not become entitled to pay until after he had enlisted an organized company within a designated time, and he could be paid only on the first muster and pay-roll of the company as completed.

In the event of his failure to recruit an organized company, the appointment of the conditional officer lapsed, and he therefore stood as discharged unless the governor gave him an appointment in the consolidated force.

The records of this office show that you did not enlist an organized company for the Eighteenth Kentucky Cavalry Volunteers, nor did you receive an appointment in the consolidated force, and, therefore, your claim does not come within the terms of the law, and consequently can not be favorably entertained.

Very respectfully, your obedient servant,

THOMAS WARD,  
*Assistant Adjutant-General.*

Mr. NATHAN FRALICK,  
*Princeton, Caldwell County, Ky.*

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