

Calendar No. 732

69TH CONGRESS }
1st Session }

SENATE

} REPORT
No. 739

FRANKLIN GUM

APRIL 29 (calendar day, MAY 1), 1926.—Ordered to be printed

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

REPORT

[To accompany S. 2312]

The Committee on Military Affairs, to which was referred the bill (S. 2312) for the relief of Franklin Gum, having considered the same, report thereon with the recommendation that it pass with the following amendment:

In line 5, strike out the name "Gun" and insert "Gum."

A similar bill was reported favorably during the Sixty-seventh Congress by your committee and that report is appended hereto and made a part of this report as follows:

[Senate Report No. 1033, Sixty-seventh Congress]

The report from the War Department on this measure is appended hereto and made a part of this report, as follows:

CASE OF FRANKLIN GUM, PRIVATE, COMPANY A, FORTY-EIGHTH WISCONSIN INFANTRY, CIVIL WAR

The records show that Franklin Gum was enrolled February 15, 1865, at Omro, Wis., and was mustered into service February 18, 1865, at Milwaukee, Wis., as a private of Company A, Forty-eighth Wisconsin Infantry, to serve one year, and deserted therefrom April 1, 1865, at Camp Washburn, Milwaukee, Wis. He never thereafter returned to his command, which remained in service until December 30, 1865, or reported his whereabouts or the cause of his absence to the military authorities. No medical record in the case of this soldier has been found.

It appears that prior to this soldier's service in the Army as above stated he served an enlistment in the United States Navy, and in applying to this department, in 1895, for removal of the charge of desertion and for an honorable discharge, he stated that he was prevented from completing his term of enlistment in the Army because of chronic diarrhea contracted while serving in the Navy.

The soldier again made application to this department for relief in 1904, and submitted an affidavit in which he stated that he served as a private in Company A, Forty-eighth Wisconsin Infantry, until April 1, 1865, when without any intention of deserting he left the regiment under the following circumstances: "While we were stationed at Milwaukee I got a furlough to go home and while at home was taken sick, it being a recurrence of chronic diarrhea that I contracted during my previous service in the Navy, and when my furlough expired I was not able to return to my regiment and for that reason I could not report for duty."

This soldier again testified, April 20, 1907, that he served faithfully until on or about the _____ day of April, 1865; that he left the regiment on furlough and was unable to return on account of sickness, chronic diarrhea.

The application for removal of the charge of desertion and for an honorable discharge in the case of this soldier has been denied and now stands denied on the ground that he did not complete his term of enlistment, and that it has not been satisfactorily established that he was prevented from completing it by reason of disability incurred in the line of duty, in the Army, and because the case does not come within any of the provisions of the act of Congress approved March 2, 1889 (25 Stat. L. 869), which is the only law in force governing the subject of removal of charges of desertion.

Respectfully submitted.

ROBERT C. DAVIS,
Acting The Adjutant General.

WAR DEPARTMENT,
The Adjutant General's Office, June 7, 1922.

The SECRETARY OF WAR.

Three affidavits have been submitted to your committee regarding this case. All three affidavits recite the facts in detail, and as they agree in all the details it is thought that only one need be inserted in this report. An affidavit from A. A. Wiles is therefore inserted, as follows:

IN RE FRANKLIN GUM, OMRO, WIS., LANDSMAN, U. S. S. "GREAT WESTERN," AND PRIVATE, COMPANY A, FORTY-EIGHTH WISCONSIN INFANTRY, CIVIL WAR

STATE OF WISCONSIN,
Winnebago County, ss:

A. A. Wiles, being first duly sworn, on oath deposes and says that he is now and ever since the year 1864 has continuously been a resident of the village of Omro, Winnebago County, Wis.; that ever since the year 1864 he has known the above-named Franklin Gum; that he knew of him as a soldier in the Civil War and of his service in the United States Navy; that since he came home from the War of the Rebellion he has known him to be in poor health, particularly immediately after his return from the Army; that during all of his years of acquaintance with the said Franklin Gum he has known him to be a good, law-abiding citizen, a person without financial means, and because of his advanced age at the present time and his condition of poverty and poor health he is unable to earn or provide himself with a livelihood; that the said Franklin Gum was a mere youth at the time he entered the service of the United States Government in the Civil War; that he was when a youth and young man and always has been a person of sub-normal intellect, but harmless and law-abiding.

Deponent further says that he verily and sincerely believes and feels that because of the honorable service of the said Franklin Gum in the Civil War and his honorable discharge from the United States Navy at the close of the period of his enlistment and his subsequent reenlistment in the Army that he should be reinstated to the pension roll of the United States Government, from which he was stricken in 1895.

And deponent further says that he verily believes that the failure of the said Franklin Gum to return to his command in the Army and receive his discharge therefrom after the surrender of General Lee in 1865 was due solely to the fact of the extreme youth of the said Franklin Gum at that time, the condition of his health and mind, and his failure to understand what was required of him, and not through any desire on the part of the said Franklin Gum to refract any of the laws of the United States or to evade any duties required of him, and that the said Franklin Gum then honestly believed that the war was over and that his services were no longer required in the Army and that nothing further in reference to his enlistment in the Army was required of him.

A. A. WILES.

Subscribed and sworn to before me this 6th day of October, A. D. 1921.

[SEAL.]

WILBUR E. HURLBUT,
Notary Public, Wisconsin.

My commission expires April 2, 1922.

In view of the fact that Gum completed his enlistment period in the Navy and was honorably discharged therefrom, and also that the affidavits submitted testify that Gum suffered from illness at the time of his furlough and did not later believe that it was necessary for him to return because the war was over, and also because of the mental condition of Gum as sworn to by the persons making affidavits, your committee recommends that the bill be passed.