MARY B. JENKS

May 6 (calendar day, May 8), 1926.—Ordered to be printed

Mr. Tyson, from the Committee on Claims, submitted the following

ADVERSE REPORT

[To accompany S. 2220]

The Committee on Claims, to whom was referred the bill (S. 2220) for the relief of Mary B. Jenks, having considered the same, report adversely thereon, with the recommendation that the bill be indefinitely postponed.

This bill seeks by its terms to appropriate $1,250.93 to Mary B. Jenks, widow of Capt. George W. Jenks, a veteran of the Civil War. The veteran, George W. Jenks, received certain gunshot wounds at the Battle of Shiloh, on April 6, 1862, for which he was receiving a pension at the time of his death on March 19, 1902. His death did not result from his service disabilities, and the application of the widow for pension based upon that theory was rejected on April 20, 1903.

On May 4, 1903, the widow was allowed a pension of $8 per month, which on February 13, 1911, was increased to $20 per month. On March 4, 1915, her pension was increased to $30 per month, and on September 18, 1922, was increased to $40 per month by special act of Congress. She is now drawing more than is ordinarily paid to the widow of Civil War veterans.

The bill is disapproved by the Department of the Interior, as appears from a letter addressed to the chairman of the committee, dated February 24, 1923, which is appended hereto and made a part of this report.

Your committee, after considering all the facts in the case, fails to see where this particular case has any special merit; on the contrary, it would appear that the widow has been well cared for by special and private legislation in her behalf. It is therefore recommended that the bill be indefinitely postponed.
MARY B. JENKS

DEPARTMENT OF THE INTERIOR
Washington, February 24, 1923.

HON. ARTHUR CAPPER,
Chairman Committee on Claims, United States Senate.

MY DEAR SENATOR: In response to your communication of the 1st instant, inclosing a copy of a bill (S. 4367) for the relief of Mary B. Jenks, I have the honor to advise you that the record in her pension claim, widow certificate No. 636473, as widow of George W. Jenks, late of Company F, Thirty-second Illinois Infantry, shows that the soldier enlisted November 4, 1861, and was honorably discharged September 28, 1862. He was pensioned for gunshot wounds of the neck, left thigh, and right leg, at the rate of $20 per month at the time of his death, on March 19, 1902.

The record further shows that on June 7, 1902, his widow, Mary B. Jenks, to whom he was married on December 11, 1878, filed an application in the Bureau of Pensions, alleging that his death was due to causes which originated in and during his military service. That claim was rejected on April 20, 1903, on the ground:

"That the soldier's death from disease of heart is not accepted as due to pensionable cause and said gunshot wounds of neck, left thigh, and right leg, and did not otherwise appear to be due to the service, and it does not appear that any other disability was alleged or shown as of service origin."

On May 4, 1903, the widow made application for pension under the act of June 27, 1890, under which the death cause of the soldier was immaterial in order to obtain title. The claim was allowed at the rate of $8 per month from May 4, 1903. This rate was subsequently increased to $20 per month from February 13, 1911, under a special act of Congress approved that date; and further increased from March 4, 1915, to $30 a month under a special act of Congress approved that date; and, on September 18, 1922, another special act of Congress was passed in her behalf whereby her pension rate was increased to $40 per month, which rate she is now receiving.

The widow made repeated attempts to have her claim, filed June 7, 1902, reopened and allowed. The rejection of the claim by the Bureau of Pensions was affirmed by the then Assistant Secretary of the Interior in a decision dated October 7, 1904, since which the claim has been repeatedly appealed by motions for reconsideration of the decision of October 7, 1904, but all of said motions have been overruled, the last one December 30, 1916.

In overruuling the motion for reconsideration on December 30, 1916, it was stated as follows:

"In this connection, the department most emphatically states that all material features of the case have been fully and carefully considered and its views were fully set out in both decisions to which reference has been made.

"The appellant lays stress on certain opinion evidence as to the bearing the wound of neck had to the cause of the death.

"The evidence shows that the late pensioner was found dead on the evening of March 19, 1902, having been away from his house since about noon of the same day. His physician, who, it seemed, had attended him and who was also a surgeon for the bureau, had examined him under a claim for increase, gave his certificate that death was due to disease of heart; that is to say, 'heart failure.' The bureau accepted this as the cause of death and held that the same was not the result of the wounds for which he had been pensioned and not otherwise due to his military service.

"Many arguments have been advanced to the effect that death was caused by injury of nerves by the missile that passed through the left side of his neck. It is stated by some medical men who had knowledge of his condition more than 14 years prior to his death and who lived in a distant State that the pneumogastric nerve was injured and, in that way, the heart was involved. This, of course, could not have been the case, as this nerve is deeply seated and is within the sheath of the carotid artery, and it is manifest that he could not have survived such an injury for 40 years.

"Other medical witnesses advanced a theory that the brachial plexus of nerves was involved in the injury and, by setting up a painful condition, the soldier's health was impaired and his mentality affected and this led to his sudden death.

"In the absence of a necropsy, the cause of the death of the late pensioner could not have been certainly determined, but the medical probabilities are all against the theory that the wound of the neck was in any manner the cause of the death."
"It was pointed out in the former opinions of the department that the history of the case, as revealed by the evidence in the invalid claim, would not lead to the conclusion that the wound involved vital functions. This is more evident by the fact that the late pensioner survived 40 years and had reached the scriptural limit of life, being past 71 years of age.

"The Government has treated this claimant generously. She has not been denied any relief which the law governing the allowance of pension could properly grant."

The purpose of the bill appears to be to grant the beneficiary the pension to which she would have been entitled had the soldier's death been, in any way, due to his military service or the cause of it have originated in and during such service. If this is the purpose of the bill, it would seem to be without merit, because it has been clearly demonstrated that his death cause was not the result of his military service or chargeable thereto in any way. Otherwise, the widow would have been granted pension under the general pension laws provided in such cases.

The papers in the claim are transmitted herewith and it is requested that, as soon as the same shall have served the purpose for which they were sent, they be returned so that they may be filed in their proper place in the Pension Bureau.

Respectfully,

E. C. Finney,
First Assistant Secretary.