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

REPORT

[To accompany H. R. 2744]

The Committee on Military Affairs, to whom was referred House bill 2744, to correct the military record of Charles E. Lowe, after consideration recommends the following amendment:

After the word "service," in line 8, page 1, insert the words "February 12, 1900, and to have received the gunshot wound in right hand in line of duty," so that the bill as amended will read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of any laws conferring rights, privileges, and benefits upon honorably discharged soldiers, Charles E. Lowe, who was a private in Company F, Thirty-seventh Regiment United States Volunteer Infantry, shall be held and considered to have been honorably discharged from the military service on February 12, 1900, and to have received the gunshot wound in right hand in line of duty, and to have served "honest and faithful" as noted on his original discharge certificate.

The committee further recommends that the bill as amended do pass.

The records of the War Department show that Charles E. Lowe enlisted August 5, 1899, at Mountain City, Tenn., and that he was discharged on a surgeon's certificate of disability on February 12, 1900, because of loss of index and middle finger of the right hand, which was the result of a gunshot wound, not in line of duty. Character given on discharge, "Honorable; service honest and faithful."

The records of the War Department further show that a board of officers was convened to determine whether this wound of the soldier was in line of duty or not, and that this board made a report indicating that the wound was intentionally self-inflicted. However, evidence submitted to the committee shows conclusively that the board
of officers did not make a thorough investigation and that the conclusion reached by this board of officers was in error.

All the men who seem to have been present at the time of the injury to the soldier and who had first-hand knowledge of the circumstances have made affidavits stating that the injury was, in their opinion, not intentionally self-inflicted, but was due to the fact that the soldier had not been instructed in the use of the rifle, and was purely accidental.

The following is the affidavit of acting corporal Joseph E. Lowe, who was the immediate superior of the soldier at the time of the injury:

This is to certify that I am personally acquainted with Charles E. Lowe. I have known him before and after our enlistment in the Spanish-American War. I enlisted in the Thirty-seventh United States Volunteer Infantry on August 8, 1899. We were immediately taken on to the Philippine Islands without having any training. We landed at Manila, P. I., about October 10, 1899, on the U. S. transport Warren, were soon rushed ashore and equipped with guns and other equipment, and several of us recruits was assigned to quarters near the outskirts of Manila under Sergeant McFarland, by orders of Lieutenant Young, to do guard and police duty. After a few days, when I, Joseph E. Lowe, was acting corporal of the guard, Charles E. Lowe, while on guard walking his post, carrying his gun at ease across his shoulders, was accidentally shot in the right hand, causing loss of use of first and second fingers. I heard the report of the gun and rushed to the aid of said Charles E. Lowe, only being a few steps away at the time, and after investigation found that this accident was due to a mistake of turning the wrong latch on the gun. He was discharged later on account of the said wound after he had been taken to the hospital. I know the said Charles E. Lowe to be a man of good reputation and character in his community and can further state that I have no interest in the prosecution of his claim for pension.

(Signed) Joseph E. Lowe.

Henry W. Parsons states under oath that he enlisted with Charles E. Lowe, and that rifles were not issued to them until they reached the Philippine Islands, and that Lowe was placed on guard duty two days after being issued a rifle and without having been given any instruction in the use of the same. He further states that he saw Lowe soon after he was injured and that he told him the same story as related in his affidavit given below.

Joseph B. Crosswhite states under oath that he was with Lowe at the time of the discharge of his gun by which he (Lowe) was injured in the hand. He states that he was only a few feet away from him at the time and that Lowe was carrying the gun across his shoulders and that he believes that the gun was discharged accidentally on account of Lowe having turned up the latch of the magazine, thinking that it was the safety lock. He states that he examined the gun after the discharge and found that the latch to the magazine was turned up, which was not its normal position.

Charles E. Lowe, the beneficiary in the case, states under oath as follows:

On August 5, 1899, I enlisted for the Thirty-seventh United States Volunteer Infantry at Mountain City, Tenn., and was immediately sent to the Philippine Islands, being stationed at Manila. I enlisted as a recruit and was given no training and did not have a gun issued until after arriving at Manila. After I had been at Manila for three or four days I was issued a rifle and placed on guard duty with Joseph E. Lowe as acting corporal of the guard. Before being placed on guard I had not been given any instruction in the use of the rifle nor as to the proper manner of carrying the same. At the time that I was placed on guard, Acting Corporal Lowe showed me how to load the rifle and told me to carry it
CHARLES E. LOWE

loaded with the safety latch on. This was the only instruction that I had been
given as to the use of the rifle except that he told me I could carry my rifle at
ease while on post. I understood that this meant that I could carry it in any
manner, since I had been uninstructed as to what "at ease" meant.

After I had been on guard duty several hours and was walking my post carrying
my rifle across my shoulders with my right hand resting on the bayonet and my
left hand on the stock of the rifle the gun was accidentally discharged. I did
not know at the time and do not know now what caused it to be discharged.

Upon examining the rifle after it had been discharged it was found that I had
not turned the safety "on" but had turned up the magazine latch instead.

When the gun went off it shot three fingers on my right hand and I was imme-
diately taken to the hospital. Acting Corporal Lowe and Private Crosswhite
were present at the time that the gun went off and know that I did not fire it
intentionally. I understand that the matter was investigated by officers and it
was reported that I intentionally maimed myself and that your records show
this to be the case. However, this is an injustice to me, since I know that the
discharge of the gun was accidental and was due, in all probability, to the fact
that I was placed on duty with the rifle without any instruction.

I was in the hospital at the time that the investigation was made by the officers
and did not know that I had been charged with shooting myself purposely and
was not given an opportunity to present any evidence nor to call any witnesses.

Acting Corporal Lowe and Private Crosswhite were present at the time as stated
above. They both have informed me that they were not called before the
investigating board and that they were not questioned as to the accident. It
seems that the board that was convened did not make a thorough investigation
but arrived at a conclusion prematurely and in error.

(Signed and sworn to by Charles E. Lowe.)

The full report from The Adjutant General of the Army follows:

Case of Charles E. Lowe, Private, Company F, Thirty-seventh United States
Volunteer Infantry, Philippine insurrection.

It is shown by the official records that Charles E. Lowe enlisted August 5, 1899,
at Mountain City, Tenn., to serve for the period ending June 30, 1901. He was
assigned as a private to the Thirty-seventh United States Volunteer Infantry, on
or about September 1, 1899, and he joined Company F of that regiment October
16, 1899. He served until February 12, 1900, when he was discharged at Manila,
Philippine Islands, on surgeon's certificate of disability, because of loss of use of
index and middle fingers of the right hand, the result of a gunshot wound premedi-
tatedly fired by the soldier and producing the desired result; not in line of duty.

Character given on discharge, "Honorable; service honest and faithful."

The medical records show that this soldier was treated in First Reserve Hospital,
Manila, P. I., from October 11, 1899, until February 12, 1900, for gunshot wound
(Krag), flesh wound of thumb, compound fracture of first and second fingers of
right hand at second joint, premeditatedly self-inflicted while on guard at Nipa
Barracks, October 10, 1899.

In compliance with special orders from Headquarters, Thirty-seventh United
States Volunteer Infantry, Manila, P. I., November 23, 1899, a board of officers
was convened to investigate, determine, and report upon the circumstances
surrounding the self-inflicted wounding of Charles E. Lowe, Company F, said
regiment, and that board of officers made the following report in the case:

"Upon being questioned Private Lowe stated that he was on guard at the
exposition grounds in Manila at the above-specified time (October 10, 1899,
inserted); that he was walking the post assigned him with his rifle loaded and
lying horizontally across his shoulders, and that his right hand was over the
muzzle of the rifle; that the rifle was cocked; that from some unknown cause his
piece was fired inflicting the aforesaid wound. The board is of the opinion that
Private Lowe was walking his post with his piece in a very irregular and unmili-
tary position; that he ignored the orders given him not to load his rifle; that
nothing came in contact with the rifle to give a sufficient jar whereby the cartridge
would be exploded; therefore, the board fails to understand how the firing pin
could have been relieved of its tension unless the trigger was pulled by the said
Charles E. Lowe, Company F, Thirty-seventh Infantry, United States Volun-
teers, and the board is of the opinion that his wound was not incurred in line of
duty, but is due to the fact that he knowingly pulled the trigger of his rifle with
the intent to maim himself."

In 1922, the Commissioner of Pensions, Washington, D. C., who had previously
been furnished with a full statement showing the facts of record in the case of this
soldier, submitted to this department the original discharge certificate of the soldier and inquired whether his discharge from the service was honorable. The original discharge certificate did not show the character of the discharge, i.e., whether honorable or without honor, although the Army Regulations in force at the time the discharge was issued provided for a discharge without honor when a soldier was discharged without trial on account of having become disqualified for service physically, or in character, through his own fault. The facts in the case were carefully considered by the department, and in view of the showing of the official records that he was discharged for a disability due to his own misconduct and through his own fault, and notwithstanding the fact that his character is shown as "honorable" and service described as "honest and faithful," it was held by the department that the discharge was not honorable, which is in accordance with the long-established principle of the department in such cases, and the Commissioner of Pensions was so informed.

Respectfully submitted.

WAR DEPARTMENT,
The Adjutant General's Office,
January 9, 1926.

The SECRETARY OF WAR.

From the best information available it appears that the only two men present at the time of the injury were Acting Corporal Joseph E. Lowe and Private Joseph B. Crosswhite. Both these men, as indicated above, state under oath that the injury was accidental to the best of their knowledge and belief. So far as is known there was no reason that the soldier could have had for intentionally maiming himself in view of the fact that he enlisted for service in the Philippine Islands and this injury occurred about two days after he reached the Philippines. Furthermore, it appears inconsistent that, had he intended to maim himself, he would have done so when two other soldiers were present, rather than when he was alone on his post.

In view of the above the committee is of the opinion that the board of officers convened for the purpose of determining whether or not the injury to the soldier was in line of duty did not make a full investigation and arrived at an erroneous finding and that this injustice to the soldier should now be corrected by the passage of this bill.