

Calendar No. 1589

69TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ No. 1581

HENRY F. DOWNING

FEBRUARY 22 (calendar day, FEBRUARY 23), 1927.—Ordered to be printed

Mr. COPELAND, from the Committee on Naval Affairs, submitted the following

REPORT

[To accompany H. R. 1691]

The Committee on Naval Affairs, to whom was referred the bill (H. R. 1691) for the relief of Henry F. Downing, having had the same under consideration, report favorably thereon with an amendment, and as amended recommend that the bill do pass.

Amend the bill by striking out all the language after the enacting clause, and insert in lieu thereof, the following:

That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$80.20 to pay Henry F. Downing as bounty due him for services rendered in the United States Navy during the Civil War.

The following, taken from the report of the House Committee on Naval Affairs on this bill, gives the facts and details of Mr. Downing's case, and is herewith made a part of this report:

[House Report No. 1576, Sixty-ninth Congress, first session]

Henry F. Downing was shipped in the naval service by his stepfather, Jacob H. Whartoe, as his substitute. Jacob H. Whartoe was not the legal or natural guardian of Henry F. Downing, and therefore had no right to ship him as a substitute. At the time he was enlisted in the Navy he was only 15 years of age and not 18 as stated by his stepfather, Jacob H. Whartoe.

Section 11 of the act of March 3, 1863 (12 Stat. 731), placed men that were drafted and called into service under the provisions of that act on the same footing as volunteers for three years as to advanced pay and bounty under then existing law, and section 17 of the act gave to substitutes of men actually drafted the same rights as to pay and allowance as were given to other principals, but no provision was made in that act or any other act granting bounty to men enlisted as substitutes for men liable to draft or who had not actually been drafted, and substitutes of this class not coming within the benefits of the law relating to substitutes for men actually drafted were entitled to bounty.

Mr. Downing made the statement in a letter to the Committee on Military Affairs, to whom this bill was originally referred, that Jacob H. Whartoe was not his legal or natural guardian, and that he, Jacob H. Whartoe, was not a drafted man, and had no right or authority to ship him as a substitute, but the Committee

on Naval Affairs felt that this statement should be made under oath in the form of an affidavit, and accordingly requested Hon. Royal H. Weller, of New York, who introduced the bill, to have Mr. Downing execute such an oath. This was done and is hereby made a part of this report.

AFFIDAVIT

I, Henry F. Downing, do hereby swear that when I entered the naval service, United States Government, 1864, I was an irresponsible minor not 15 years of age; that the man that shipped me was not my legal or natural guardian; that I did not know what the word "substitute" meant; that I was never paid any bounty; did not know I was entitled to receive a bounty; that the man that shipped me as his substitute was not a drafted man and never was drafted.

I served over one year, during which period, I participated in several battles.

HENRY F. DOWNING.

Sworn and subscribed to before me this 23d day of June, 1926.

EUGENE L. C. DAVIDSON, *Notary Public.*

The committee is of the opinion that (based on the affidavit) Mr. Downing was not a substitute and that he is entitled to the bounty of \$80.20, as certified to by the Comptroller General in his first letter to the Secretary of the Navy under date of March 16, 1926, which was transmitted to the chairman of the Committee on Naval Affairs of the House of Representatives through the Secretary of the Navy and which is hereby made a part of this report:

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, March 16, 1926.

THE CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Replying further to the committee's letter of February 2, 1926, inclosing a bill (H. R. 1691) for the relief of Henry F. Downing, I have the honor to inform you as follows:

The Comptroller General in his review of this case (No. 414), dated March 1, 1922, has certified that \$80.20 is due Mr. Downing as bounty for Civil War service.

The bill H. R. 1691, which will if enacted cost the Government \$80.20, was referred to the Bureau of the Budget with information that the department contemplated making a favorable recommendation on the bill, and under date of March 9, 1926, the Navy Department was informed that this report would not be in conflict with the financial program of the President.

In view of the above the Navy Department recommends that H. R. 1691 be enacted into law.

Sincerely yours,

CURTIS D. WILBUR,
Secretary of the Navy.

NAVY DEPARTMENT,
Washington, April 16, 1926.

THE CHAIRMAN COMMITTEE ON NAVAL AFFAIRS,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to the Navy Department's letter of March 16, 1926, relative to a bill (H. R. 1691) for the relief of Henry F. Downing.

Further investigation of this case has revealed the fact that the decision of the Comptroller General of March 1, 1922 (review No. 414), referred to in our letter of March 16, 1926, reversed the action of the Auditor for the Navy Department of March 17, 1921, disallowing Mr. Downing's claim, but that on March 15, 1922, the Navy Department reported to the Comptroller General that Mr. Downing was a substitute, and under a decision of the Comptroller General appearing in volume 6 of the Comptroller's Decisions, page 763, substitutes were not entitled to the bounty. Subsequently review No. 414 of March 1, 1922, was reconsidered and on May 10, 1922, the Comptroller General disallowed the claim and canceled the certificate issued March 1, 1922.

Sincerely yours,

CURTIS D. WILBUR,
Secretary of the Navy.