
JAMES W. NUGENT

FEBRUARY 6, 1931.—Committed to the Committee of the Whole House and ordered to be printed

Mr. DOUGLAS of Arizona, from the Committee on Military Affairs, submitted the following

REPORT

[To accompany S. 35]

The Committee on Military Affairs, to whom was referred the bill (S. 35) for the relief of James W. Nugent, having considered the same, report thereon with the recommendation that it do pass with the following amendments:

Line 9, after the word "pension", insert "bounty,".

Line 10, after the word "shall" strike out the word "accrue", and insert in lieu thereof "be held to have accrued".

The history of this case is given in the report made thereon by the Senate committee which also carries a report of the War Department, and which, therefore, is made a part of this report, as follows:

[Senate Report No. 673, Seventy-first Congress, second session]

The Committee on Military Affairs, to which was referred the bill (S. 35) for the relief of James W. Nugent, having considered the same, report favorably thereon with the recommendation that it do pass with the following amendment:

Line 9, after the word "pension" insert a comma and the words "back pay or allowances".

In 1900 James W. Nugent, a private in Troop F, First United States Cavalry, stationed at Fort Keogh, Mont., became involved in an altercation with a corporal of his company. He was tried by a general court-martial and found guilty of conduct to the prejudice of good order and discipline and was sentenced to be dishonorably discharged from the service and to be confined at hard labor for a period of six months, which sentence was duly carried out.

Nugent, who still claims he was not guilty of the offense charged against him, that of striking a noncommissioned officer, is now and has been for years a prominent and highly respected business man in Miles City, Mont.

Your committee feels that Nugent has been punished enough for the charge on which he was convicted, and that he is entitled to the relief asked for in this bill.

Following are statements, affidavits, etc., from men who served with him and prominent citizens of his locality, as well as Gen. H. N. Lord, a member of the court which tried Nugent; Col. Robert C. Foy, judge advocate of the court; and Col. E. Lindsey, who was Nugent's commanding officer:

BUREAU OF THE BUDGET,
Washington, May 11, 1927.

Hon. T. J. WALSH,
United States Senate.

MY DEAR SENATOR WALSH: My attention has been called to your bill (S. 4179, 65th Cong., 2d sess.) for the relief of James W. Nugent. I served as a member

of the court at Fort Keogh which passed sentence upon Nugent, and while at this late date I have no definite recollection of the case as far as it concerned this particular man, from the papers submitted, with particular reference to the letter of Colonel Foy, who was judge advocate of the court, I have no hesitation in stating that I think the bill a meritorious one and would be glad to see it enacted into law.

If there is any way that I can assist in this matter on the reconvening of Congress, when I presume the bill will be again introduced, I trust you will command me.

Very sincerely yours,

H. M. LORD, *Director.*

SCHOOL OF FIRE FOR FIELD ARTILLERY,
FORT SILL, OKLA., May 20, 1918.

MY DEAR SENATOR WALSH: James W. Nugent, of Miles City, Mont., informs me that you have been kind enough to interest yourself in trying to have him restored to an honorable status.

In his behalf, I am addressing you this note, in the hope that you may use your good offices toward the above end.

I was a lieutenant in the troop of Cavalry to which Nugent came as a recruit. He was a young boy, was headstrong, of quick temper, and finally got into a fighting scrape, with a noncommissioned officer, for which he was tried by court-martial, and sentenced to be dishonorably discharged from the service.

I am well acquainted with all the facts of the case, as I acted as judge advocate at the trial, a position which corresponds, more or less, to prosecuting attorney.

I have had occasion to see Nugent at his home in recent years, and I know much about him through many of my intimate friends at Miles City.

Without hesitation, I say that Nugent is a hard-working, industrious citizen of high character, and has more than expiated any offense which he may have committed in his earlier days. He has shown by his conduct that he is worthy of consideration.

Naturally, his reputation through all these years, has carried a stigma, which, if possible, should be removed. I feel that he is the sort of man which the country now is in need of. If he can be given a clean bill, it will be a source of pleasure to me, and I am sure to his many friends and admirers at his home.

With assurances of my high esteem I am,

Very respectfully,

ROBERT C. FOY,
*Colonel, Three Hundred and Thirty-second Field Artillery,
United States Army.*

HON. SENATOR WALSH,
United States Senate, Washington, D. C.

MAPLE SHADE, N. J., May 24, 1927.

To whom it may concern:

I was James W. Nugent's troop commander and was a member of the court that sentenced him to dishonorable discharge and six months confinement.

I am fully satisfied that he has led an exemplary life since that time and has been a good citizen for many years. I strongly recommend that the consequences of his dishonorable discharge be removed and that he be restored to the rights of citizenship.

It is not just nor good policy to impose upon a boy of 18 years of age, in punishment for a crime that carries only six months confinement, an additional punishment to last during his entire lifetime and which a quarter century of right living and good citizenship can not overcome.

E. LINDSLEY,
Colonel United States Army, Retired.

On this 7th day of June, A. D. 1918, before me, M. F. Mann, a notary public for the State of Montana, personally appeared George H. Cahoo who, upon being duly sworn, deposes and says:

I am at present employed in the Quartermaster Corps, United States Army, at Fort Keogh, Mont. In 1900 for some time before and some time after I was

employed as wheelwright in the Quartermaster Department at Fort Keogh, Mont., that I knew James Nugent from the time he joined the Cavalry troop at the post until the time he was discharged from the United States Army. That I was employed in a position where I had ample opportunities of observing this man as to his conduct as a soldier, and it is with pleasure that I am able to testify as to the good character of Nugent as a soldier. In fact he was somewhat of a study to me, seeing the temptations that surrounded him to lead him to drink and vice, yet he was a man to all appearance to whom those vices were utterly repugnant. His energy and vitality were entirely devoted to athletic sports.

That the trouble which arose between Corporal Lincoln and Nugent was freely discussed before me by the men who saw the affair and a few of the participants, and one and all were unanimous in declaring that Nugent was acting, or trying to, in the rôle of peacemaker. They declared as utterly ridiculous that Nugent assaulted the corporal, for said they, from what we know of Nugent's physical ability, he would only have to strike the corporal once and Lincoln would sleep for a week. It will be understood from this that Corporal Lincoln was a small man, in height and weight, while Nugent is the reverse and always kept himself in the best physical condition. From what I know of him he was too manly a man to assault a man so much his inferior physically.

I have followed his progress since he left the Army, and starting with the handicap of a dishonorable discharge from the Army, and no money, he has, through his ability, honesty, sobriety, and integrity, built up a business in Miles City that bids fair to render him and his fairly well off. He is liked by his business associates and his employees. He is a married man with a family of boys and girls, and hopes that his country will reinstate him as an honorably discharged soldier whose every effort has been to aid our administration in the business of winning the war.

GEORGE H. CAHOO.

Sworn and subscribed to before me this 7th day of June, A. D. 1918.

[SEAL.]

M. F. MANN,

Notary Public for the State of Montana.

My commission expires August 11, 1920.

On this 7th day of June, A. D. 1918, before me, M. F. Mann, a notary public for the State of Montana, residing at Miles City, Mont., personally appeared Henry C. Thompson, of Miles City, Mont., who, upon being duly sworn, deposes and says:

I am at present a resident of Miles City, Mont., not engaged in any business, but living on an income derived from my life's savings. In 1900, for some time before, and for some time after I held the position of forage master in the quartermaster department of the United States Army, at Fort Keogh, Mont.; that I knew James Nugent from the time he joined the Cavalry troop at the post until he was discharged from the United States Army.

I had during this time every opportunity to meet and know him, owing to the position I held, and found him to be a good soldier, temperate in his habits, clean living in every way, with a passion for athletic sports.

The enlisted men, naturally after Nugent's trouble occurred, talked about the matter among themselves and to me. It was from this I learned that Nugent had not the remotest idea of assaulting Corporal Lincoln but for the sake of comrades was endeavoring to make peace between two struggling people in the bunk next to his own. Then when he was charged with striking a non-commissioned officer he felt so aggrieved and disheartened at the idea that anybody could believe much less charge him with such conduct that he made little or no effort to meet the testimony that offered against him.

That the sergeant of the guard who gave the direct testimony against Nugent firmly believed he was doing his duty when he knocked out Nugent with his carbine. But it should also be remembered that according to the statements of the men who saw the matter, the guard was excited and the light was bad from only one lantern, and coming into dark barracks at that time, it would be reasonable to conclude that the happenings took on a distorted view.

I have known James Nugent since his discharge from the Army, and I feel fully justified in saying that a man like him, who is thoroughly admired and respected in his dealings with men, could not be guilty of the misdemeanor of which he was charged. There was a mistake somewhere.

Knowing that with the stigma of a dishonorable discharge hanging over him, it would not be possible for him to serve his country in a military capacity, he has thrown himself heart and soul into the various movements inaugurated to assist the administration in its present war work.

HENRY C. THOMPSON.

Sworn and subscribed to before me this 7th day of June, A. D. 1918.

[SEAL.]

M. F. MANN,

Notary Public for the State of Montana.

My commission expires August 11, 1920.

On this 7th day of May, 1918, before me, a notary public for the State of Montana, residing at Miles City, personally appeared George A. Stockhill, of Miles City, Mont., known to me personally, who upon being duly sworn, on oath deposes and says:

That, I am at present a resident of Miles City, Mont., and my business is that of contractor and builder. In 1900, for some time before and for some time after, I was employed by the Quartermaster Department of the United States Army, as post carpenter at Fort Keogh, Mont., that I knew James Nugent when he joined the Cavalry troop of the First United States Cavalry, commanded by Captain Ward and afterwards by Lieut. E. E. Linsley both of the First United States Cavalry.

During the time he was at Keogh, I saw him almost every day, even then I noticed his upright and manly character, strictly temperate, where the temptation to use intoxicants was very strong.

The trouble in which he became involved with his immediate military superiors (while I do not presume to criticize) was in my estimation caused by the petty jealous hatred of a corporal who knowing Nugent's character so well, that he could rest securely in the fact of Nugent's taking the blame to save his comrades. Since his discharge from the Army I have continuously noted his rise from the position of a dishonorably discharged soldier to the honorable position he now holds as a large employer of labor in the drayage business, cherished by a loving wife and children, honored by his fellow townsmen as a model citizen, foremost in all that counts for the best civic interests of the city, State, or Nation, or the interests of humanity, and still mentally chafing under the disgrace of a dishonorable discharge from the United States Army.

GEORGE A. STOCKHILL.

Sworn and subscribed to before me this 7th day of May, 1918, at Miles City, Mont.

[SEAL.]

M. F. MANN,

Notary Public for the State of Montana.

My commission expires August 11, 1920.

On this 6th day of June, A. D. 1918, before me, P. L. Leonard, a notary public for the State of Montana, residing at Miles City, personally appeared M. F. Mann, of Miles City, Mont., who upon being duly sworn, deposes and says:

I am at present a resident of Miles City, Mont., engaged in the insurance and real-estate business. In 1900 for some time before and some time after I held the position of postmaster at Fort Keogh, Mont., that I knew James Nugent from the time he joined the Cavalry troop at the post until he was discharged from the United States Army. During this time I had every opportunity to meet him and know him owing to my duties as postmaster, and I always found him to be a man of strictly temperate habits, clean living, clean speaking, and ardently fond of athletic sports, mixing with his fellow soldiers in every sport, but always abstaining from indulging in alcoholic drink. While I was not an eyewitness to the trouble in which Nugent became involved, still I had the supposed facts told me time and again by the men who claimed they saw the incident and by one of the men involved. This confidence was given me, I presume, owing to the fact that I had served 8 years in the United States Army and was discharged as regimental sergeant major.

Corporal Lincoln, which was the name of the noncommissioned officer whom Nugent was accused of assaulting, ordered Nugent to leave the front porch of the barracks, where many of the men had gone to sleep owing to the heat.

Nugent gathered up his blankets, etc., and followed Corporal Lincoln into the quarters, and it was dark. Nugent groping his way to his bunk, found two men struggling in the bunk next his own and endeavored to separate them. At this moment the sergeant of the guard and some members of the guard, one of whom had a lighted lantern, came upon the scene, and in the excitement of the moment and rather imperfect light jumped to the conclusion that Nugent was assaulting Corporal Lincoln who proved to be one of the struggling men in the bunk next to Nugent's; the other was a Private Thorpe. Without a moment's hesitation the sergeant of the guard came up behind Nugent and struck him on the head with butt of carbine, and Nugent was rendered unconscious. He was tried by court-martial and unfortunately he had no witnesses to come forward and support his statement that he was endeavoring to make peace.

Since his discharge from the Army, I have known him and of him continually. He has been an exemplary citizen, foremost in every movement for the betterment of this community, and foremost in every patriotic movement that would tend to assist his country in the present crisis. He is a married man with a family of boys and girls and naturally shrinks from the idea of leaving the legacy to his family of a dishonorable discharge from his country's service.

In witness whereof I have hereunto set my hand and seal the day and year in this affidavit first above written.

M. F. MANN.

Sworn and subscribed to before me this 6th day of June, A. D. 1918.

[SEAL]

P. F. LEONARD,
Notary Public for the State of Montana.

My commission expires January 18, 1921.

STATE OF MONTANA,
County of Lewis and Clark, ss:

Sydney Sanner, of lawful age, being first duly sworn, deposes and says:

That he is now, and since January, 1913, has been, one of the justices of the Supreme Court of the State of Montana; that prior to said date and from January, 1908, he was judge of the District Court of the Seventh Judicial District of Montana, and before that time was, from May, 1899, a practicing attorney at Miles City, Mont.; that he is well acquainted with James W. Nugent, of said last-mentioned place, having known said Nugent for at least 15 years; that said Nugent has always borne a high reputation for character and responsibility, rated and universally considered to be an upright, careful, dependable man; that affiant has just learned of said Nugent's dishonorable discharge from the Army and is surprised thereat because of the inconsistency which such an episode presents with said Nugent's later career, which has been that of a thoroughly conscientious man of business; that affiant would now, notwithstanding said discharge and imputing the same to some youthful indiscretion, place implicit reliance upon the honor, patriotism, and loyalty of said Nugent; that affiant makes this affidavit in contemplation of the effort said Nugent is making to have his record corrected.

SYDNEY SANNER

Subscribed and sworn to before me this 13th day of May, 1918.

[SEAL.]

J. T. CARROLL,
Clerk of the Supreme Court, State of Montana

FORT KEOGH, MONT., May 15, 1918.

To whom it may concern:

I have known Mr. James Nugent for about 20 years. I first knew him as an enlisted man in F Troop, First United States Cavalry, about the year 1899, he in company with a number of enlisted men returned to the post from Miles City, and some of whom were creating a disturbance and the guard placed some of them under arrest, and some of them resisted, they being under the influence of liquor, or at least some of them were.

James Nugent is, and always has been, an abstainer from intoxicants; he was given a trial by court-martial and given a sentence of, I think, two years in the

guardhouse, and a dishonorable discharge. This sentence was carried out. He now desires to be relieved of this odium. He is one of the prominent business men of Miles City and of the most excellent reputation; an active worker for all war measures, and a most exemplary citizen, and I strongly recommend that his request for an honorable discharge from the military service be granted. I am personally acquainted with all the circumstances, I being at the time it occurred post engineer at Fort Keogh and still retain that position.

To grant his request will not only relieve a good and honorable citizen of the stigma, but will benefit the country and this community.

GEORGE T. SLACK.

MILES CITY, MONT., May 31, 1918.

Hon. T. J. WALSH,

United States Senator, Washington, D. C.

DEAR SIR: I write you in behalf of Mr. James Nugent, of this city, and I am glad of the opportunity to say and do what I can for Mr. Nugent, not as his attorney but as a friend and a citizen of Miles City, being convinced that Mr. Nugent is deserving of everything that you or I may say or do in his behalf.

I have known Mr. Nugent for a great many years. I do not remember, now, just when I became acquainted with him, but my recollection is that it was while, or just after, he was serving in the United States Army at Fort Keogh. I have no personal knowledge of his trouble at Fort Keogh while in the service, but I have talked with some of the men who were at Fort Keogh at the time and who knew Nugent personally and well, and they all agree that Nugent's trouble was not because of any inherent vice but only because of boyish carelessness and recklessness. While the punishment that he received, no doubt, appeared to the officers of the court-martial as necessary in behalf of military discipline, still those that are acquainted with the facts think that the punishment was too severe for the offense committed; that Nugent's acts and conduct were not nearly as reprehensible as some of the others involved, who received less severe punishment; that, in a measure, he was made the "goat" for the rest. Those who knew Nugent when he was serving in the Army at Fort Keogh say that he never drank or caroused around like some of the others and that, in fact, he was never drunk in his life; and I can truthfully say that, during all the time that I have known him, I have never known him to be at all under the influence of liquor.

He has been engaged in business here for a number of years. He married a Miles City girl and has a family of children growing up, which he is educating in our city schools and his family is one of which he can be and is justly proud. He and his family both are now and always have been held in high esteem by the people of Miles City. His wife is president of the local Red Cross chapter and has been tireless in her work, giving service for the organization of which any woman can be proud and the Miles City chapter is one of the very best chapters in the State.

Mr. Nugent has always taken a prominent part in all matters affecting public interest. He has been a faithful and unselfish worker for everything which concerns the public good and, particularly, is this true at the present time. It has been my pleasure to serve with him on some committees in connection with war work and there is not a more zealous or patriotic worker in Miles City than he. He has given his time and spent his money freely and without ostentation. He has been a member of the Miles City Chamber of Commerce for several years; has been a member of the executive committee for two or three years that I know of, possibly longer, and I have been associated with him on this executive committee and know that his services and judgment in behalf of the public's interest have been of the best. He has been acting as deputy sheriff, under appointment from Sheriff Middleton, and doing some special work in connection with the war—I do not know just the nature of all this work. Some of it, I understand, is of a secret nature, but I simply mention it to show the esteem in which he is held by our public officers.

The indiscretion that he may have committed in his youth has been more than atoned by his exemplary conduct in these later years and it would certainly be a great act of justice to have him restored to all of such rights as he may have lost by reason of his dishonorable discharge from the Army. Frankly, I must say that I think it would be an injustice to deny to him the restoration of these privileges and rights, to refuse to remove the stain and the stigma that he has, so manfully, borne in this community for these many years.

As I have stated in the commencement of this letter, I write this not as an attorney pleading a case for him but simply as a friend and citizen of the city in an endeavor to see justice done a deserving fellow citizen.

With highest personal regards, I am, very truly yours,

GEO. W. FARR.

OFFICE OF SHERIFF,
Miles City, Mont., June 14, 1918.

Hon. T. J. WALSH,
United States Senator, Washington, D. C.

DEAR SIR: Mr. James W. Nugent, of this city, has requested that I address a letter to you, in his behalf, which I gladly do.

I have know Mr. Nugent for a great many years; for three years or more, he has been a deputy, under appointment by me, serving without salary, and, since the entrance of this country in the war, he has been of exceptionally valuable service in connection with war activities and in running down pro-German suspects, giving a great deal of his time to the work and without any pay.

I consider him a very valuable man, one who can be absolutely depended upon under any circumstances and conditions. Mr. Nugent is well thought of in this community and ever since I have known him, he has been a law-abiding citizen.

With highest personal regards, I am,

Yours very truly,

A. B. MIDDLETON.

MILES CITY, MONT., June 15, 1918.

Hon. T. J. WALSH,
United States Senate, Washington, D. C.

DEAR SENATOR: Relative to the matter of Mr. James W. Nugent of this city, who some years ago was dismissed from the Army at Fort Keogh because of an altercation in which he became involved and of which all of us believe him to be without blame, I will say that he is a man of exceptionally good character. During the 10 years I have resided in Miles City I have known Mr. Nugent intimately. There has scarcely been a day but what I have been brought into contact with him in a business way. I have always found him upright in every particular. He is a man of exceptionally good habits and enjoys the esteem of all of his associates.

Since the outbreak of the war I have come closely in contact with Mr. Nugent, as a member of the Custer County Council of Defense and other patriotic organizations with which I am affiliated, and I can candidly say that Mr. Nugent has been a most patriotic and ardent worker. To my personal knowledge he has made a good many sacrifices during the past one and one-half years for the good of the cause and I earnestly hope you can be instrumental in having his former status with the Army restored. Nobody who knows Mr. Nugent intimately would believe for a moment he would be guilty of any unquestionable act.

Very respectfully yours,

CUSTER COUNTY COUNCIL OF DEFENSE,
J. D. SCANLAN, Secretary.

The record of James W. Nugent in the office of The Adjutant General, War Department, is as follows:

WAR DEPARTMENT, November 15, 1929.

CASE OF JAMES W. NUGENT, PRIVATE, TROOP F, FIRST UNITED STATES CAVALRY

The records on file in this office show that James W. Nugent enlisted July 30, 1900, to serve three years, and that he was assigned as a private to Troop F, First United States Cavalry. He was tried by a general court-martial convened at Fort Keogh, Mont., and found guilty of conduct to the prejudice of good order and military discipline in violation of the sixty-second article of war, and was sentenced "To be dishonorably discharged the service of the United States, forfeiting all pay and allowances due him, and to be confined at hard

labor at such post as the reviewing authority may direct, for the period of six months."

The sentence was approved on June 21, 1901, and Fort Meade, S. Dak., was designated as the place of confinement. The soldier was accordingly dishonorably discharged the service on June 27, 1901, in pursuance of the sentence of the general court-martial.

The dishonorable discharge of this soldier having been actually carried into execution, it is beyond the power of the War Department or any executive officer of the Government to revoke, modify, or set aside that action, or to grant to him an honorable discharge, it being a well-established principle of law that there can be no revocation or modification of the duly executed portion of the sentence of a general court-martial.

Respectfully submitted.

C. H. BRIDGES,
Major General,
The Adjutant General.

The Secretary of War.

A. B. MURPHY

Miss Cary, Most

Hon. J. W. Aldrich

The record of the war of James W. Nugent in the office of the Adjutant General War Department is as follows:

Carter County, Oregon, or thereabouts
J. D. ...

The record of James W. Nugent in the office of the Adjutant General War Department is as follows:

War Department, ...

Case of James W. Nugent, Private, ...
The records on file in this office show that James W. Nugent enlisted July 10, 1861, to serve three years, and that he was assigned near Fort ...
First United States Cavalry. He was cited for a general court-martial ...
conducted at Fort Leavenworth, and found guilty of conduct to the prejudice of good order and military discipline in violation of the fifty-second article of war, and was sentenced to be dishonorably discharged the service of the United States, forfeiting all pay and allowances due him, and to be confined at hard