

1-9-1883

## Date of Entry Into Military Service

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IN THE SENATE OF THE UNITED STATES.

JANUARY 9, 1883.—Ordered to be printed.

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

REPORT:

[To accompany bill S. 1888.]

*The Committee on Military Affairs, to whom was referred the bill (S. 1888) to fix the date of entry into the military service and to correct the record of officers now in the Regular Army who served as officers of volunteers and Regular Army, have duly considered the same, and submit the following report:*

Your committee referred the bill to the Secretary of War for information and report, and received from him a letter with the accompanying reports from the General of the Army and the Adjutant-General, and a letter from Capt. Evan Miles; all of which are hereto attached and made a part of this report.

Your committee do not believe that it is within the reasonable power of Congress—in fact, life is too short—to undertake to minutely review and reconsider and remedy anew all the seeming or imagined grievances of every officer now in the Regular Army in regard to dates of entry into service and relative rank, &c., after the lapse of seventeen years from the close of the late war, and the disbanding of the large number of officers in the volunteer service and the reorganization and reduction of the Regular Army.

The present dates of entry into service and relative rank of all the officers now in the service have been known and accepted and acted upon for years. They have been nominated by the President and confirmed by the Senate and have accepted.

There must be an end to legislation upon these questions, or confusion worse than confounded, strifes and contentions will exist and increase with every act of legislation.

The time of Congress and the valuable time of the officers of the Army can be more profitably and pleasantly employed than in overhauling and attempting to correct or change existing status.

Let peace prevail in the Army as in civil life. Your committee recommend that the bill and the whole subject-matter therein referred to be indefinitely postponed.

A.

WAR DEPARTMENT,  
Washington City, December 15, 1882.

SIR: Referring to your letter of June 20, 1882, inclosing, with request for the views of this department thereon, a copy of the bill S. 1888, Forty-seventh Congress, first

session, "to fix the date of entry into the military service and to correct the record of officers now in the Regular Army who served as officers of volunteers and Regular Army," I have the honor to invite attention to the views of the General and the Adjutant-General of the Army as presented in their inclosed reports upon the subject of the above-named bill.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,  
*Secretary of War.*

Hon. F. M. COCKRELL,  
*Of Committee on Military Affairs, United States Senate.*

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B.

HEADQUARTERS ARMY OF THE UNITED STATES,  
*Washington, D. C., December 13, 1882.*

SIR: I now have the honor to return you the letter of the Hon. F. M. Cockrell, of June 20, 1882, referred to me for remark, and inclose a full report of Adjutant-General Drum, in whose reasonings and conclusions I fully concur.

The real object of rank in the Army is to fix responsibility when troops come together for action. During the civil war of 1861-'65 the Regular Army was swallowed up by a vast assemblage of State and national troops, and at its close, or soon thereafter, the vast mass of the State and national volunteers was mustered out of service and discharged. Out of this wreck was reorganized a new and much smaller Army for a peace establishment. New generals, colonels, captains, and lieutenants were chosen by boards, or by processes prescribed by then existing laws, and the new officers were confirmed by the Senate, their relative rank established, not necessarily by length of service in their previous volunteer commissions, but by merit, real or supposed.

This new establishment has been subjected to many changes, and now to go back of the reorganizations of 1866-'68-'69, and introduce a new principle, to date present commissions back to dates during the civil war, will create confusion worse founded. I doubt if it be possible. I am sure it is impracticable to apply the principle laid down in Senate bill 1888, herewith, if it should unfortunately become a law.

I therefore express the hope that Congress will not disturb the present rank of officers in the Army, in the hope of correcting some seeming cases of hardship unavoidable at the time of the reorganization. Better meet these cases, if any there be, by money compensation.

W. T. SHERMAN, *General.*

Hon. R. T. LINCOLN,  
*Secretary of War, Washington, D. C.*

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C.

ADJUTANT-GENERAL'S OFFICE,  
*December —, 1882.*

SIR: I have the honor to return herewith Senate bill No. 1888, and the letter from Hon. F. M. Cockrell, of the Senate Military Committee, in reference thereto, and to report as follows:

There are, in my opinion, many objections to the bill, and I am unable to perceive any reasons why it should become a law. The bill is ambiguous in language; its full intent or meaning is not expressed with sufficient exactness or clearness to be understood, and, should it become a law, it would, beyond a doubt, become a subject of discussion and controversy in respect to its operation and construction.

It provides, first, "that any officer *now* in the Regular Army, who served" in the volunteer or Regular Army, "at any time during the war of the rebellion, as a regimental or staff officer, or aide-de-camp to any general officer, and actually performed the duty of such position, *shall* be considered as in the service for the entire time he acted in such capacity" \* \* \* "and the Secretary of War is hereby authorized to recognize such officer as if he had been regularly commissioned and mustered, and cause his record in the Army Register to be corrected accordingly." This seems to be the only provision of the bill which is clearly defined, and while it appears on its face to contain an element of justice, yet I think it would be more equitable and advisable to require each person, whether *now in the Army* or not, who claims to have rendered military service for the United States which has not been recognized by the

government, and for which he has not been paid, to present his individual claim, with proofs of service for the action of Congress.

It is now about seventeen years since the civil war closed. The laws and regulations which were in force during the war, and which were published for the information and guidance of persons then in the United States military service, provided for the recognition and pay of such as were *legally* entitled thereto. There were some persons, civilians, who *voluntarily* served as aides to general officers, &c., with the full knowledge that they had no *legal* status in the Army, and who possessed the liberty of rendering only such service as suited their convenience. Some persons of this class may be now in the Army. There were also some persons who received commissions from governors of States in organizations in which there were no vacancies, or which had the maximum number of officers allowed by law or regulations. Some of these persons, although not mustered and not lawfully entitled to be mustered into the United States service, may have rendered more or less service under their commissions. Indeed, many claims have been presented to the War Department by persons so commissioned, but not mustered, for recognition and pay, but only a small percentage of this class of claimants have, upon investigation, been found to have rendered any actual service to the United States. A full statement of the laws, regulations, and practice of the department respecting this class of claims will be found in the letter of the Secretary of War to the House of Representatives of January 16, 1871, and accompanying documents, printed in House Ex. Doc. No. 54, Forty-first Congress, third session.

There were also some persons who received irregular appointments from commanding generals, notably in Missouri, in the early days of the war, to positions not recognized by law, and who could not be acknowledged as holding legal positions in the military service.

All persons who were regularly and legally appointed or mustered into the United States military service have, of course, been given credit and pay for their services, and if it be proposed to enact a general law giving credit and pay for service not already recognized by law, it would seem to be invidious and unjust to confine its benefits to such persons only as are *now in the Army*, and to exclude those not in the Army, who constitute by far the greater number, and who have, at least, equal claims for recognition. There is another point to be considered in connection with the provision of the bill hereinbefore granted—the question of *relative rank* of officers now in the Army. Relative rank of officers now holding commissions of the same grade and date by appointment is fixed by law according to the total length of their service as commissioned officers either in the United States Army or volunteers, or both. There are, for instance, colonels who were appointed July 28, 1866, who have, since then, held lineal rank as determined by the law just cited. It is not improbable that the bill, should it become a law, would give some of the junior colonels credit for some voluntary or irregular service for which they have not heretofore been entitled to credit, and thus elevate them in rank over the heads of colonels their seniors for sixteen years.

The other provision of the bill is as follows: "That any officer now in the \* \* \* Army who served with the volunteer forces \* \* \* at any time during the war \* \* \* as a regimental or staff officer, or aide-de-camp to any general officer, \* \* \* shall take rank from the commencement of said service, and thereafter in the various grades to which he was appointed or promoted, in accordance with the date of his appointment or commission," \* \* \*

The language of this portion of the bill is ambiguous and its intent or meaning is not clear. It may be assumed to mean that an officer of volunteers who may have been commissioned in the Regular Army in the same grade held by him in the volunteers, shall take rank *in the Regular Army from the date of his volunteer commission*. It must mean this, if it means anything. Such a law as this would, in my opinion, be exceedingly unwise. It would benefit a few officers at the expense of many; would be contrary to the existing law governing the matter of relative rank in certain cases (section 1219, Revised Statutes); would overturn the laws and regulations under which for many years officers have held rank and received promotion, and would be sure to create discontent and provoke prolonged controversies, to the detriment of the interests of the service. While it is believed that such a law would at any time have been unwise, if not impracticable, in a measure, yet had it been enacted during or just at the close of the late war, it would not have been so *wholly* objectionable as if passed at this late date. The actual operation of such a law may be illustrated by the following case taken from the current Army Register: T. is now a captain of infantry, appointed as such to an *original vacancy* in one of the regiments created by the act of July 28, 1866, and to rank from that date. He had served as a captain in the volunteers since December 18, 1861. He was mustered out of the volunteer force, and his commission there increased to be effective upon his appointment in the Regular Army. He receives credit for his volunteer service for longevity pay, and for *relative rank* as between himself and other captains appointed the same date—July 28, 1866.

He takes precedence in rank over all captains appointed that date whose prior commissioned service covered a less period than his. His prior commissioned service is a few months less than five years, and, under the equitable provisions of the act of March 2, 1867 (section 1219, Revised Statutes), a captain appointed July 28, 1866, who had prior commissioned service of, say, seven years—as first lieutenant and four years as captain—takes precedence in relative rank. Now, this new law would come in and say that Captain T., notwithstanding the provisions of section 1219, Revised Statutes, and the express terms of the commission by virtue of which he holds his office, shall take rank as captain from December 18, 1861. The record would be thus made to show that a captain, now filling a vacancy in that grade which was not created until July 28, 1866, was commissioned thereto *to date from December 18, 1861*. Had he been given that date of rank on appointment, he would have taken precedence in rank over nearly two hundred captains who were then his seniors, sixteen of whom have been since promoted to the rank of major, and many of whom are now in service. He could not *now*, by reason of these promotions be given the place he would hold had he originally been appointed to date from December 18, 1861, but he would go immediately to the head of the list of captains in the infantry, over the heads of captains who have for years been his seniors, some of whom have rendered longer military service to the government.

Senate bill 1888 is substantially the same in its provisions as House bill 5643. Copies of a letter from Maj. M. P. Small, of the Subsistence Department, and of the indorsement of Lieutenant-General Sheridan thereon, setting forth the injustice that would result to certain officers of the Army, should the latter bill become a law, were transmitted by the Secretary of War to the chairman of the Senate Committee on Military Affairs, in a letter dated May 13, 1882. The objections urged by the officers named to the House bill apply with equal force to the Senate bill. A copy of a letter from Capt. Evan Miles, Twenty-first Infantry, setting forth his views as to the injustice of the proposed legislation on this subject, is inclosed herewith, and attention invited thereto.

Very respectfully, your obedient servant.

R. C. IRUM,  
*Adjutant-General.*

The GENERAL OF THE ARMY.

D.

VANCOUVER BARRACKS, W. T.,  
*June 13, 1882.*

SIR: I have the honor to call your attention to various bills that have been introduced in Congress recently, working unjust comparisons between the services rendered by those officers, now in the Regular Army who held appointments in the volunteer service during the war, and those who legitimately performed their duties in the regular regiments. It should be well known at the War Department that great opposition was made to permitting any officer of the Regular Army who desired to serve with the volunteer forces from accepting a position of lower grade than that of colonel, and that consequently but few were permitted to obtain the positions in the volunteer service that the proposed laws now intend to reward. This, in my opinion, is manifestly unjust, for it cannot be reasonably claimed that the individual patriotism and attention to duties upon the part of officers was magnified or lessened by the accidental fact that one was in the volunteers and another in the Regular Army. If such is the impression I must, on my own part, indignantly deny it. I entered the service from civil life on August 5, 1861, as a first lieutenant in the Twelfth United States Infantry. At that time volunteer regiments now being organized in my native State, Pennsylvania, in many of which I could have obtained a captain's position. I desired in tendering my services to my country to be placed where I could *at once* be called upon for active service, and believed that by commencing under the command of experienced and disciplined soldiers, I would be better qualified to render immediate service. I declined several offers to serve with the volunteers. If such action was unpatriotic, I did not so consider it at the time, nor do I think so now.

I have served continuously since August 5, 1861, and was regularly promoted to captain on January 20, 1865.

Now come forward bills which, in effect, punish and degrade me for not asking volunteer rank. An examination of the Army Register for January, 1882, will show that I stand forty-third in lineal rank among the captains of infantry. Should any of the bills become a law, each and every officer that entered the volunteer service as captain prior to January 20, 1865, would take rank above me, and instead of standing as I do now, I would be placed 123 in lineal rank, a loss of eighty files, and at the present rate of promotion (about six files per year) would be thrown *back* fourteen

years in promotion, and would have to serve twenty-one years more reaching a majority. While waiting for this promotion, I am also thrown *back* in the Twenty-first Infantry, in which I now rank as first captain, and will have to take rank as fifth captain, being overlaughed by the present sixth, eighth, ninth, and tenth captains, all of whom held volunteer commissions as captains.

Besides this loss of rank in the infantry, I would be still further reduced in my relative rank in the Army. •

During the rebellion I participated in nearly every engagement of the Army of the Potomac, and since the war I have twice commanded the Twenty-first infantry in Indian campaigns against the hostile Nez Percés and Bannock Indians, in Washington and Idaho Territories.

The records of the War Department will show that I was frequently favorably mentioned by my superior officers for services rendered during and since the war.

If it is not considered improper I would request that this letter may be submitted for the consideration of the Military Committees of both houses.

Very respectfully, your obedient servant,

EVAN MILES,  
*Captain, Twenty-first Infantry.*

To the ADJUTANT-GENERAL, U. S. ARMY,  
*Washington, D. C.*