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Conferring brevet rank on officers of the Army for gallant services in Indian campaigns.

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CONFERRING BREVET RANK ON OFFICERS OF THE ARMY
FOR GALLANT SERVICES IN INDIAN CAMPAIGNS.

FEBRUARY 15, 1890.—Referred to the House Calendar and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 478.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 478) to authorize the President to confer brevet rank on officers of the Army for gallant services in Indian campaigns, report:

That they have had the same under consideration, and report the same back, with the unanimous recommendation that the same pass with an amendment.

This bill in substantially its present form has been unanimously reported in the House in four successive Congresses. It has passed the House twice by unanimous vote, and has passed the Senate, in the form in which it is here reported, in the Fiftieth Congress; but owing to a difference in the wording of the bill in the two houses, it failed to become a law. It has never been reported adversely or failed to receive favorable action when reached. It does not take a dollar from the Treasury, now or hereafter. It confers no rank either now or hereafter. It is simply a recognition of gallant services performed long ago in arduous and trying Indian campaigns, and for which brevet recognitions were recommended by the proper department commanders at the time.

Many of the beneficiaries are long since dead from wounds received or disease contracted in the service.

It simply completes their military record without giving to them or their heirs any pecuniary emolument whatever, now or hereafter.

Many to whom it relates have since resigned. To them it is a tardy recognition of faithful and valiant service to the country, which costs us nothing but a sheet of parchment.

The committee recommend that House bill 478 be amended, so as to make it more explicit, by adding the following as sections 2, 3, and 4, and that as so amended it pass:

SEC. 2. That such brevet commissions as may be issued under the provisions of this act shall bear date from the date of the recommendation thereof by the department commander in each case respectively.

SEC. 3. That brevet rank shall be considered strictly honorary, and shall confer no privilege of precedence or command not already provided for in the statutes which embody the rules and articles governing the Army of the United States.

SEC. 4. That all laws and clauses of laws in conflict with this act are hereby repealed.

The committee, for further information of the House, appends some of the reports in former Congresses, also letters from the Adjutant-General and Secretary of War.

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WAR DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, January 14, 1890.

SIR: I return herewith H. R. 478, a bill "to authorize the President to confer brevet rank on officers of the Army for gallant services in Indian campaigns," referred to this Department on the 10th instant, and invite attention to the inclosed copy of the report of the Adjutant-General, in which I concur, and list of recommendations for brevets for service in Indian campaigns and engagements since January 1, 1867.

Very respectfully,

REDFIELD PROCTOR,
Secretary of War.

Hon. B. M. CUTCHEON,
Chairman Committee on Military Affairs, House of Representatives.

First indorsement on letter from Hon. B. M. Cutcheon, chairman House Military Committee, inclosing H. R. 478, providing for brevets for gallant services in Indian campaigns.

ADJUTANT-GENERAL'S OFFICE, *January 13, 1890.*

Respectfully returned to the Secretary of War, inclosing a full list of recommendations for brevets for service in Indian campaigns and engagements since January 1, 1867, as shown by the records of this office.

A good many officers named in this list are now dead or out of service, and a good many have been promoted so that they now hold a higher actual rank than the brevet rank recommended.

Military men in authority regard gallant service in action with hostile Indians as meritorious as with a civilized enemy.

The endurance of fatigue, the danger to health, the activity of mind, the physical effort, and the bravery displayed in the actual encounter, are just as great, although the scene of action may be smaller in one case than the other.

Hence gallantry is just as much entitled to the highest recognition by the Government in one case as the other.

I regard the provisions of the accompanying bill (H. R. 478) as a proper recognition of gallant services rendered, and as a most important incentive to similar deeds. There can be no kind of military heroism that should not be rewarded by a discriminating Government in order to secure the best efforts of its military.

J. C. KELTON, *Adjutant-General.*

[House Report No. 1225, Fiftieth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1561) to authorize the President to confer brevet rank on officers of the Army for gallant services in Indian campaigns, respectfully report:

This measure, in almost the same identical terms, has been reported favorably in the Forty-seventh, Forty-eighth, and Forty-ninth Congresses.

In the latter it passed the House unanimously, and was reported favorably in the Senate, but was not reached on the Calendar. The committee adopts the report made from this committee in the Forty-ninth Congress and make it a part hereof:

"The existing law relating to brevet rank is contained in sections 1209 and 1210, Revised Statutes (taken from section 2 of the act of March 1, 1869), and provides that the President, 'by and with the advice and consent of the Senate, may, in time of war, confer commissions by brevet * * * for distinguished conduct and public services in presence of the enemy,' etc.

"This law has been construed by the War Department and by the Attorney-General as authorizing the conferring of brevet commissions upon officers of the Army for meritorious services in engagements with or in campaigns against hostile Indians, if made during the existence of Indian hostilities.

"The War Department formerly acted upon this construction of the law, and in 1869 submitted a number of brevets for services in Indian campaigns, some of which were confirmed by the Senate. No brevet nominations have, however, been confirmed by the Senate since 1869.

"In 1874 and in 1875 nominations for brevet appointments, based on services rendered in the Modoc and Arizona Indian campaigns, were submitted to the Senate but were not confirmed without action.

"In January, 1876, all these nominations were resubmitted, but the Senate again adjourned without action.

"No further nominations have been made, save in one instance, that of Lieut. E. S. Farrow, Twenty-first Infantry, made in April, 1880, and not confirmed.

"In 1878 the President requested the views of the Secretary of War as to the propriety of again submitting to the Senate nominations for brevets for service in Indian campaigns.

"The Secretary referred the question to the General of the Army (General Sherman) for his views, and in response the general remarked:

"If brevet commissions are right, and should be conferred for any wars whatever, they should be for Indian wars, because these wars call for the largest measure of risk, exposure, and toil, and every possible stimulus of honor and profit should be held out to encourage officers to struggle for success."

"We fully concur in this expression of the General of the Army. We can conceive of no reason that would be valid in any war that would not be equally valid for granting brevets in Indian wars.

"There is rather more reason for it than less. In other campaigns there is a certain glory or distinction to be won, and an opportunity for promotion and reward, which, owing to the limited theater of operations, and the peculiar nature of wars against savages, does not and can not exist in these campaigns. And yet every highest attribute of a good soldier and officer is called for in these wars. Courage, skill, vigilance, endurance, wisdom, judgment, and unflagging energy, while usually remote from and beyond communication with officers of high rank, are all demanded in these disagreeable and thankless campaigns to protect our remote frontier.

"It is true that under existing laws the brevet commission carries with it no rank or pay or command, except in the single instance of assignment to duty by the President on the brevet commission, when officers are 'actually engaged in hostilities' (act March 3, 1883).

"With that exception they confer a mere title. It may be no more than a ribbon or a cross, or other decoration, but it is a visible symbol of the appreciation of a commanding general and of the recognition of the nation through its Chief Magistrate and Senate.

"Believing that there is some just doubt about the construction and meaning of the present law, and that such recognition would be only justice to some exceedingly meritorious officers, your committee recommend that the bill be amended for greater certainty by striking out in line 8 the words 'commanding general,' and inserting in lieu thereof the words 'department commander,' and that as so amended the bill do pass."

The committee recommend that the bill do pass.

[Senate Report No. 790, Fiftieth Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 1323) entitled "A bill to confer brevet promotions on officers of the United States Army particularly distinguished by heroic action in Indian warfare, and for other purposes," have had the same under consideration, in connection with two other bills (S. 2021 and 2028) on the same subject, and herewith report back the bill S. 1323, amended, and recommend its passage.

By section 1209 of the Revised Statutes (act approved March 1, 1869) it is provided that the President, "by and with the advice and consent of the Senate, may, *in time of war*, confer commissions by brevet * * * for distinguished conduct and public services in presence of the enemy," etc.

The Senate has refused to construe this provision as authorizing brevet rank to be conferred on officers who for "distinguished conduct and public services" in Indian wars would seem to be justly entitled to receive the benefits (honorary) of the law of 1869. The War Department and the Attorney-General have held that officers in Indian wars could be brevetted during the *existence* of Indian hostilities, and the reason assigned by the Senate for refusal to confirm has been that the Indian was not an "enemy," and that a conflict with Indians could not be termed "a time of war." Assuming this construction of the act of 1869 to be sound, your committee are of the opinion that the construction measures the extent of the reason why it should be extended to include officers who have distinguished themselves as aforesaid in Indian campaigns. In 1869 a number of brevets for services in Indian wars were submitted to the Senate, some of which were confirmed; but there have been no confirmations of this character since.

In 1874 and in 1875 nominations for brevet appointments, based on services rendered in the Modoc and Arizona Indian campaigns, were submitted to the Senate, but were not confirmed.

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In January, 1876, all these nominations were resubmitted, but the Senate again adjourned without action.

No further nominations have been made, save in one instance, that of Lieut. E. S. Farrow, Twenty-first Infantry, made in April, 1880, and not confirmed.

In 1878 the President requested the views of the Secretary of War as to the propriety of again submitting to the Senate nominations for brevets for service in Indian campaigns.

On the general proposition, that of conferring brevet rank for distinguished services or heroic action in Indian wars, your committee can conceive of no good reason that would be valid in any war which would not apply with equal force in granting brevets in Indian wars, and concur with General W. T. Sherman, who says:

"If brevet commissions are right, and should be conferred for any wars whatever, they should be for Indian wars, because these wars call for the largest measures of risk, exposure, and toil, and every possible stimulus of honor and profit should be held out to encourage officers to struggle for success."

A favorable report was made on this subject from this committee in the last Congress, at which time the committee was in receipt of numerous letters from Army officers of all grades urging that this brevet recognition be awarded; one of the documents, numerously signed by officers, contained the following:

"The measure, as reported, authorizes the President to nominate and, with the consent of the Senate, to appoint to brevet rank all officers, active or retired, who have been recommended to this distinction for gallant service in action against hostile Indians since January 1, 1867. The rank thus proposed is entirely honorary, carrying no additional pay; the aim is simply to reward special deeds of heroism. In any other country the gallant exploits of the last twenty years in border warfare would have been acknowledged not only by awarding increased rank but increased pay.

"During the war for the Union brevet rank was constantly conferred; and a distinguished general officer once said, brevet commissions certainly belong to Indian wars, if any, inasmuch as they call for the largest measure of risk, exposure, and toil; and every possible stimulus of honor and profit should be held out to encourage officers to struggle for success. In war with civilized nations the soldier has an opportunity to make a name that will be remembered in history; whereas the minor character of Indian operations prevents them from attracting as great attention and from securing permanent distinction to the participants. Yet the labor and the peril are as great in these small operations as in larger ones. The responsibility, courage, endurance, and good judgment required are also as great in Indian warfare; while over it hangs the terrible consciousness that capture often means death by torture with all the fiendish atrocities that savagery can invent. Even were this danger of a horrible death taken away, there is no more reason for depriving heroism of its just reward when displayed in the lonely cañons of the Sierra Madre than when shown in storming the defenses of Petersburg.

"There is still another reason why the pending measure ought to be enacted. There now exists a statute which authorizes the conferring of brevet rank upon commissioned officers 'for distinguished conduct and public service in presence of the enemy.' Why, then, is not this sufficient? Simply because certain jurists of the Senate have in past years successfully called in question whether a Geronimo or a Sitting Bull is an 'enemy' in the sense meant by the statute. It may seem incredible that for twenty years, in the matter of interpretation, the doubt has always been against officers nominated for brevets on account of splendid acts of heroism. This, however, is the case, and in one instance of adverse action on such nominations the Senate Military Committee expressly said that it had no doubt of the meritorious character of the services rendered. Thus a score or more of officers have been deprived of the reward they would otherwise have received, and many of them are now with the dead."

These views accord with those expressed by a House committee which considered this subject in the last Congress:

"In other campaigns there is a certain glory of distinction to be won, and an opportunity for promotion and reward, which, owing to the limited theater of operations, and the peculiar nature of wars against savages, does not and can not exist in these campaigns. And yet every highest attribute of a good soldier and officer is called for in these wars—courage, skill, vigilance, endurance, wisdom, judgment, and unflagging energy, while usually remote from and beyond communication with officers of high rank—and all demanded in these disagreeable and thankless campaigns to protect our remote frontiers."

And with those expressed by General Crook, who said:

OMAHA, February 11, 1887.

MY DEAR GENERAL: I see by the papers that the bill allowing brevets for Indian service has passed the House. I do hope you will do all you can to have it pass the Senate, as it is a righteous and just bill. Gallant service should be recognized with-

out reference to the kind of foe engaged. You are well aware of the onerous and dangerous nature of this Indian service, and as brevets is all that is asked, I hope they will not be withheld longer from the persons who so richly deserve them.

Yours, sincerely,

GEORGE CROOK.

To CHARLES F. MANDERSON.

Capt. E. A. SNOW gives quite a graphic account of the heroism and valor displayed by men upon whom it is proposed to confer this brevet rank. He says:

WASHINGTON, D. C., *January 19, 1888.*

DEAR SIR: I have the honor to very respectfully submit to you the following, which are but a few from among many of the instances of personal valor on the battle-field that have come to my notice in Indian warfare:

Captain Bourke distinguished himself on the field so frequently in the Apache campaigns from 1870 to 1873 as to be four times mentioned in general orders for his gallant and heroic conduct, and in other campaigns has frequently been the recipient of honorable and praiseworthy mention for his valor and services in the field, and he has been several times recommended for brevet promotion; but under existing laws being unable to confer this recognition for valor the officers ceased to ask for it, or there would be a larger number of instances which I could refer to.

To omit many instances, I will observe that he distinguished himself by leading a charge, on the 17th of March, 1876, on Powder River, and in several charges on the Rosebud on the 17th of June, 1876, in an engagement with the same Indians who massacred General Custer's command, and eight days before that fight. In this engagement at the Rosebud Captain Bourke saved my life after I was shot in the right elbow and left wrist joints, causing total disability. He rode into the very midst of the Indians and rescued me, although the nearest skirmish line was at least a thousand yards away. I could give other instances, but it would make this letter too long.

Major Henry, of the Tenth Cavalry, distinguished himself in this engagement, and so did Major Mills, of the Ninth Cavalry; and Major Mills whipped the Indians and won the first victory after the Custer massacre, and it was one of the most brilliant ones of the campaign. Colonel Hatch, of the Ninth Cavalry, distinguished at a more recent date, and many others. But it will occur that from the frequent and constant Indian warfare the instances of valor are numerous, and your bill will enable the President and Senate to recognize it by a nominal promotion.

I have the honor to remain, sir, very respectfully, your obedient servant,

E. A. SNOW.

Hon. CHARLES F. MANDERSON,
United States Senator for Nebraska.

After full consideration of the subject-matter your committee have struck out the preamble of the bill (S. 1323), and have amended the title and the bill so as to allow brevet rank to be conferred on "all officers of the Army now on the active or retired lists who, by their department commander and with the concurrence of the Commanding General of the Army, have been or may be recommended for gallant service in action against hostile Indians since January 1, 1867," the brevet commissions to bear date only from the passage of this act; the date of the heroic action for which the brevet rank is conferred to appear in the commission; such rank to be only honorary, without privilege of precedence or command not already provided for by the statutes which embody the rules and articles governing the Army.

As amended, the measure has the approval of Lieutenant-General Sheridan, under date of March 29, 1888.

Your committee accordingly report the bill (S. 1323) back favorably, amended as heretofore stated, and recommend its passage.

[Senate Report No. 1943, Forty-ninth Congress, second session.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 6758) "to authorize the President to confer brevet rank on officers of the Army for gallant services in Indian campaigns," report back the bill favorably.

The committee have received numerous letters from Army officers of all grades, urging that there should be this recognition of the gallant and arduous services frequently incident to campaigns against hostile Indians. Among other letters so re-

ceived is the following from General George Crook, whose long and valuable experience in Indian wars entitle his suggestions to great weight :

OMAHA, February 11, 1887.

MY DEAR GENERAL: I see by the papers that the bill allowing brevets for Indian service has passed the House. I do hope you will do all you can to have it pass the Senate, as it is a righteous and just bill. Gallant service should be recognized without reference to the kind of foe engaged. You are well aware of the onerous and dangerous nature of this Indian service, and as brevets is all that is asked, I hope they will not be withheld longer from the persons who so richly deserve them.

Yours, sincerely,

GEORGE CROOK.

To CHARLES F. MANDERSON.

Among other matter received by the committee is the following circular from a number of military officers interested in the subject, and which contains suggestions of such value that the committee adopted it as part of their report:

INDIAN SERVICE BREVET BILL.

In the rival rush of measures calling for millions of the public money, a bill which proposes to do a great act of justice, and thereby to promote the efficiency of an important branch of the Government service without costing a dollar, seems to stand very little chance of receiving attention, but perhaps on one of the days assigned for the consideration of military bills it may be brought up for action.

The measure, as reported, authorizes the President to nominate and, with the consent of the Senate, to appoint to brevet rank all officers, active or retired, who have been recommended to this distinction for gallant service in action against hostile Indians since January 1, 1867. The rank thus proposed is entirely honorary, carrying no additional pay; the aim is simply to reward special deeds of heroism. In any other country the gallant exploits of the last twenty years in border warfare would have been acknowledged not only by awarding increased rank but increased pay.

During the war for the Union brevet rank was constantly conferred; and a distinguished general officer once said, brevet commissions certainly belong to Indian wars, if any, inasmuch as they call for the largest measure of risk, exposure, and toil; and every possible stimulus of honor and profit should be held out to encourage officers to struggle for success. In war with civilized nations the soldier has an opportunity to make a name that will be remembered in history; whereas the minor character of Indian operations prevents them from attracting as great attention and from securing permanent distinction to the participants. Yet the labor and the peril are as great in these small operations as in larger ones. The responsibility, courage, endurance, and good judgment required are also as great in Indian warfare; while over it hangs the terrible consciousness that capture often means death by torture with all the fiendish atrocities that savagery can invent. Even were this danger of a horrible death taken away, there is no more reason for depriving heroism of its just reward when displayed in the lonely cañons of the Sierra Madre than when shown in storming the defenses of Petersburg.

There is still another reason why the pending measure ought to be enacted. There now exists a statute which authorizes the conferring of brevet rank upon commissioned officers "for distinguished conduct and public service in presence of the enemy." Why, then, is not this sufficient? Simply because certain jurists of the Senate have in past years successfully called in question whether a Geronimo or a Sitting Bull is an "enemy" in the sense meant by the statute. It may seem incredible that for twenty years, in the matter of interpretation, the doubt has always been against officers nominated for brevets on account of splendid acts of heroism. This, however, is the case, and in one instance of adverse action on such nominations the Senate Military Committee expressly said that it had no doubt of the meritorious character of the services rendered. Thus a score or more of officers have been deprived of the reward they would otherwise have received, and many of them are now with the dead. The interpretation of the existing statute may be entirely sound; but, if so, all the more reason is there for enacting the pending bill.

When once the recognition of gallantry in Indian hostilities is secured by brevet promotion for officers it will be easy to extend its benefits in certain desirable ways for the reward of like exceptional gallantry among enlisted men.

As by existing law brevet rank does "not entitle an officer to any increase of pay or to precedence or command, except by special assignment of the President in time of war," it will be seen that the passage of the pending measure can have no effect other than that of conferring an honorary distinction upon officers for meritorious acts of heroism in the presence of the enemy during service against hostile Indians.

Your committee quite agree with the Committee on Military Affairs of the House of Representatives, and adopt their report, as follows:

The existing law relating to brevet rank is contained in sections 1209 and 1210, Revised Statutes (taken from section 2 of the act of March 1, 1869), and provides that the President, "by and with the advice and consent of the Senate, may, *in time of war*, confer commissions by brevet * * * for distinguished conduct and public services in presence of the enemy," etc.

This law has been construed by the War Department and by the Attorney-General as authorizing the conferring of brevet commissions upon officers of the Army for meritorious services in engagements with or campaigns against hostile Indians, *if made during the existence of Indian hostilities*.

The War Department formerly acted upon this construction of the law, and in 1869 submitted a number of brevets for services in Indian campaigns, some of which were confirmed by the Senate. No brevet nominations have, however, been confirmed by the Senate since 1869.

In 1874 and in 1875 nominations for brevet appointments, based on services rendered in the Modoc and Arizona Indian campaigns, were submitted to the Senate, but were not confirmed.

In January, 1876, all these nominations were resubmitted, but the Senate again adjourned without action.

No further nominations have been made, save in one instance, that of Lieut. E. S. Farrow, Twenty-first Infantry, made in April, 1880, and not confirmed.

In 1878 the President requested the views of the Secretary of War as to the propriety of again submitting to the Senate nominations for brevets for service in Indian campaigns.

The Secretary referred the question to the General of the Army (General Sherman) for his views, and in response the General remarked:

"If brevet commissions are right, and should be conferred for any wars whatever, they should be for Indian wars, because these wars call for the largest measures of risk, exposure, and toil, and every possible stimulus of honor and profit should be held out to encourage officers to struggle for success."

We fully concur in this expression of the General of the Army. We can conceive of no reason that would be valid in any war that would not be equally valid for granting brevets in Indian wars.

There is rather more reason for it than less. In other campaigns there is a certain glory or distinction to be won, and an opportunity for promotion and reward, which, owing to the limited theater of operations, and the peculiar nature of wars against savages, does not and can not exist in these campaigns. And yet every highest attribute of a good soldier and officer is called for in these wars. Courage, skill, vigilance, endurance, wisdom, judgment, and unflagging energy, while usually remote from and beyond communication with officers of high rank, are all demanded in these disagreeable and thankless campaigns to protect our remote frontiers.

It is true that under existing laws the brevet commission carries with it no rank or pay or command, except in the single instance of assignment to duty by the President on the brevet commission when officers are "actually engaged in hostilities" (act March 3, 1863.)

With that exception they confer a mere title. It may be no more than a mere ribbon, or a cross, or other decoration, but it is a visible symbol of the appreciation of a commanding general and of the recognition of the nation through its Chief Magistrate and Senate.

Believing that there is some just doubt about the construction and meaning of the present law, and that such recognition would be only justice to some exceedingly meritorious officers, your committee recommend that the bill be amended for greater certainty by striking out in line 8 the words "commanding general," and inserting in lieu thereof the words "department commander," and that as so amended the bill do pass.

The committee, therefore, recommend the passage of the bill without amendment.