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[Emeline Filgate]

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IN THE SENATE OF THE UNITED STATES.

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FEBRUARY 4, 1896.—Ordered to be printed.

Mr. GALLINGER, from the Committee on Pensions, submitted the following

REPORT:

[To accompany S. 1631.]

The Committee on Pensions, to whom was referred the bill (S. 1631) granting a pension to Emeline Filgate, have examined the same and report:

Claimant under this bill is the widow of James Filgate, late of Company G, Sixth United States Infantry, who served from December 4, 1845, to October 31, 1848, having enlisted in Lowell, Mass., and who performed military service during the whole period covered by our war with Mexico. There can be little doubt but the soldier enlisted for the Mexican war. He was pensioned at the rate of \$27 per month for diseases caused by malarial poisoning, and died September 10, 1893.

The widow applied for pension under the Mexican war pension act, but the claim was rejected on the strength of a decision of the honorable Secretary of the Interior, under date of July 20, 1893, to the effect that as the soldier was with his command at Fort Gibson, Cherokee Nation, from May 1, 1846, to October 31, 1848, the case did not come under the provisions of the act of January 29, 1887, which required service in Mexico, on the coast or frontier thereof or en route thereto, for the period of sixty days.

Desiring to secure more definite information, a communication was addressed to the Commissioner of Pensions in January last, to which reply was made as follows:

DEPARTMENT OF THE INTERIOR, BUREAU OF PENSIONS,  
*Washington, January 9, 1896.*

SIR: In response to your personal inquiry relative to the claim for pension of Emeline Filgate, widow of James Filgate, late of Company G, Sixth United States Infantry, and in reply to the letter of Judge F. M. Beckford, of Laconia, N. H., herewith returned to you, I have caused the papers therein to be carefully examined.

Mrs. Filgate's application was filed August 15, 1894, and was made under the provisions of the act of January 29, 1887, on account of the service of her deceased husband in the war with Mexico. This law requires that the soldier shall have served sixty days "in Mexico, or on the coasts or frontier thereof, or en route thereto," or actual engagement in battle, or personal mention in Congressional resolution for specific service in said war, to give title to pension thereunder.

It has been held by the Interior Department in the interpretation of this law that the service, when outside of Mexico, must have had some direct connection with, and have formed part of the military or naval operations in that war not by way of garrison duty at some post far remote from the borders of Mexico, but as actually en route to the seat of war, or serving "on the coasts or frontier" in belligerent attitude.

In this particular case it is reported from the records of the War Department that the soldier enlisted at Lowell, Mass., December 4, 1845, was present with his company and stationed at Fort Gibson, Cherokee Nation, from May 1, 1846, to October 31, 1848, when he was discharged. It was therefore held, in view of the express provisions of the law and the departmental decisions, that this claimant had no title to pension under this law, the soldier not having performed the requisite sixty days' service in the war with Mexico.

The soldier was a pensioner at the rate of \$27 per month for nearly total deafness of both ears following malarial poisoning, this pension having been allowed under the general provisions of law for disabilities contracted in the service and line of duty, and was not in any sense a service pension.

Thus it is true that the soldier was a pensioner on account of disabilities contracted during his service in the United States Army from 1845 to 1848, but the claim of the widow was not based upon the theory that soldier died of diseases contracted in the United States service, but specifically under the provisions of the act of January 29, 1887, under which she had no title as shown above.

Very respectfully,

WM. LOCHREN, *Commissioner.*

Hon. J. H. GALLINGER,  
*United States Senate.*

While technically the case was decided in accordance with an interpretation of the Mexican pension act given by the present Secretary of the Interior, the presumption is very strong that the soldier enlisted with the expectation of being sent to Mexico, but was required to do duty elsewhere.

Claimant is getting old, is very poor, and suffering from an incurable disease (cancer). Your committee is of opinion that the technicalities of the case can safely be brushed aside, and the small pension provided for in the bill be granted. It is therefore recommended that the bill be reported back favorably, with a recommendation that it do pass.

