

JAMES E. MACKLIN.

MARCH 4, 1884.—Committed to the Committee of the Whole House and ordered to be printed.

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

REPORT:

[To accompany bill H. R. 436.]

The Committee on Military Affairs, to whom was referred House bill 436, have carefully considered the same, and in view of the good standing of Lieutenant Macklin before and since his dismissal, and in view of the fact that his restoration to the Army was promptly made by the President as soon as he was advised of the proceedings against Lieutenant Macklin, your committee report the bill back with favorable recommendation, and invite the attention of the House to the petition of Lieutenant Macklin, and to letters and indorsements herewith, and made a part of this report.

(1.)

FORT SULLY, DAK., *May 30, 1879.*

SIR: I have the honor to inclose herewith a petition to the Congress of the United States, asking for restoration to my original rank in the Army before dismissal in November, 1876, and respectfully request that you will forward it to the proper House, through the honorable the Secretary of War.

Very respectfully, your obedient servant,

JAMES E. MACKLIN,  
*Second Lieutenant, Eleventh Infantry.*

The ADJUTANT-GENERAL,  
*United States Army.*

[First indorsement.]

HEADQUARTERS FORT SULLY, DAK.,  
*May 30, 1879.*

Respectfully forwarded. I earnestly recommend favorable action upon this petition. Lieutenant Macklin is one of the most faithful and painstaking officers I have ever had under my command.

CHAS. G. BARTLETT,  
*Major Eleventh Infantry, Commanding Post.*

[Second indorsement.]

HEADQUARTERS DEPARTMENT OF DAKOTA,  
*Saint Paul, Minn., June 6, 1879.*

Respectfully forwarded through headquarters Military Division of the Missouri. I am acquainted with all the facts in Lieutenant Macklin's case, and I believe that they are correctly stated in the inclosed petition. I earnestly recommend favorable action on his petition.

ALFRED H. TERRY,  
*Brigadier-General, Commanding.*

[Third indorsement.]

HEADQUARTERS MILITARY DIVISION OF THE MISSOURI,  
Chicago, June 9, 1879.Respectfully forwarded to the Adjutant-General of the Army.  
In absence of the lieutenant-general commanding.WM. D. WHIPPLE,  
Assistant Adjutant-General.

## PETITION.

*To the Senate and House of Representatives of the United States in Congress assembled :*

Your petitioner, James E. Macklin, a second lieutenant in the Eleventh United States Infantry, does herein petition your honorable bodies that he be restored to his original rank in the United States Army as held by him prior to his dismissal from the Army in November, 1876.

The circumstances to which your petitioner begs to call your earnest attention and careful consideration are as follows :

In the summer of 1876 he held the rank of second lieutenant in the Twenty-second United States Infantry, and was with his regiment on campaign duty under General Terry against hostile Indians. On Friday, the 4th of August, 1876, he was duly detailed and mounted officer of the guard; during his tour of duty he drank three glasses of ale, but no other intoxicating liquor. On the same day he was placed in arrest; on the next day charges and specifications were preferred against him, and on the third day (which was Sunday) a general court was convened, and, having had but a few hours in which to secure counsel and make preparations for a proper defense against a serious charge, he was arraigned and tried, the trial being held on board of the steamer *Far West*, then tied up at the mouth of the Rosebud River.

After a short trial the court found him guilty of the charge, "drunk on duty," and sentenced him to be "dismissed from the service of the United States," this being the only sentence the court could impose under the Thirty-eighth Article of War.

He was recommended by every member of the court and by the department commander to the mercy of the President, and the President, when consulted, had no recollection of having seen or approved the proceedings of the court.

Very shortly after his trial he was released from arrest and placed on duty, and continued to perform dangerous and arduous duties in the field until about the 20th of November, when he received the order dismissing him from the service.

He immediately proceeded to Washington City, secured an interview with President Grant, who informed him that he had no recollection of having seen or heard anything about the case, and who immediately reappointed him as a second lieutenant in the Eleventh Infantry, his commission bearing date of January, 12, 1877, while his previous commission bore date of August 9, 1867, a loss of ten years rank.

Your petitioner was thus by a hasty trial, held on Sunday, and without time for preparation for defense, convicted of charges preferred less than twenty-four hours before, and made to suffer the severest penalty the law can inflict, and for an offense which, had it been premeditated or common, or even the result of carelessness, would have merited most serious punishment, but occurring as it did, through unfortunate circumstances, and being entirely unintentional, your petitioner feels that the sentence was a very severe one. His offense was due to the taking of three glasses of ale, which, under ordinary circumstances, certainly would intoxicate no man so as to render him unfit for duty, but the weak state of the nerves, due to great fatigue and to lack of food for nearly twelve hours, greatly increased the effects of the liquor, and for this he was charged with, tried, and dismissed for being "drunk on duty," without any finding as to the extent of the intoxication or that he was unfit for duty.

Your petitioner enlisted as a private in the Sixteenth Indiana Volunteers in April, 1861, and, after passing through the lower grades, was appointed captain September 24, 1864, was mustered out in June, 1865, and appointed to the Regular Army in 1867. By this trial and sentence he lost ten years in rank that was gained by hard service, mostly on the frontier. During these fifteen years of service in all parts of the country, in field, camp, and garrison, against white foes and against Indians, he has never but this once suffered arrest, trial, or censure for any neglect of his duty as an officer or as a gentleman, and in this case he has the recommendation of every member of the court, of the reviewing general, of the colonel of his regiment, and by his speedy re-appointment, that of the then President of the United States.

In the face of these facts your petitioner (and many of his fellow-officers) thinks that he has already suffered by the loss of rank for the last three years, or since his trial or punishment amply sufficient for the offense, coupled with its attendant circumstances, and requests that you will carefully and leniently consider his petition and restore to him the ten years of rank lost by an arrest, trial, and conviction in two days and the day of trial (Sunday), and for an offense of which he has been

guilty but once in fifteen years of service, and which was not intentional, and which he feels very deeply is a blot upon an otherwise good record during fifteen years, and which he hopes the impartial and earnest consideration of your honorable bodies will remove, and place him again in the position to which his length of service entitles him. He is,

Very respectfully, your obedient servant,

JAMES E. MACKLIN,  
*Second Lieutenant Eleventh Infantry.*  
 E. D. TOWNSEND,  
*Adjutant-General.*

• True copies :

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,  
*June 13, 1879.*

COMMANDANT'S OFFICE,  
 UNITED STATES MILITARY PRISON,  
*Fort Leavenworth, Kans., January 23, 1884.*

MY DEAR SIR: As a member of the general court that tried Lieut. James E. Macklin, Eleventh Infantry, August, 1876, I would be glad now to see him reinstated in his former position, and if you can do anything for him would consider it a great personal favor. He is an excellent officer, and all who know Lieutenant Macklin would be glad to see him back in his old place.

I remain, with great respect, your obedient servant,

E. RICE,  
*Captain Fifth Infantry, Bvt. Lieut. Col., U. S. A.*

Hon. GEORGE W. STEELE, M. C.,  
*Washington, D. C.*

HEADQUARTERS, FORT KROGH, MONT.  
*October 7, 1881.*

SIR: It is with great pleasure that I can say that you served under me at several posts from 1868 to 1872, and that I always found you an efficient, energetic, and excellent young officer, and I would be much pleased to see you regain your original rank.

Yours, truly,

J. N. G. WHISTLER,  
*Lieutenant-Colonel, Fifth Infantry.*

Second Lieut. J. E. MACKLIN,  
*Eleventh Infantry, Glendive, Mont.*

HDQRS. GENERAL RECRUITING SERVICE, U. S. ARMY,  
*New York City, December 15, 1876.*

His Excellency U. S. GRANT,  
*President of the United States:*

I have the honor to state to your excellency that James E. Macklin, late a second lieutenant in my regiment, served continuously under my command from 1870 until last July. During that time I never had occasion to find any fault with his conduct, official or social. In regard to sobriety he was a teetotaler, and was much relied upon by me when an enterprising officer was needed.

Very respectfully, your obedient servant,

D. S. STANLEY,  
*Colonel Twenty-second Infantry.*

A true copy.

W. W. DAUGHERTY,  
*First Lieutenant Twenty-second Infantry.*

FORT SULLY, DAK., *December 29, 1879.*

MY DEAR SIR: The colonel of our regiment having superseded me in command of this post, I feel that I cannot do less than to express to you how agreeable to me during the past six months has been our intercourse, both official and personal. As my only

staff officer, performing the duties of adjutant, commissary of subsistence, quartermaster, and constituting the receiving board of public property, you have shown such zeal, activity, energy, and care for the best interest of the Government as entitle you to special commendation and sincere thanks from me as your commanding officer. As an associate and friend it will always be a matter of congratulation to me to have known you, and I trust that our friendly relations may continue through time.

Sincerely yours,

CHAS. G. BARTLETT,  
Major Eleventh United States Infantry.

Lieut. JAMES E. MACKLIN,  
Eleventh United States Infantry.

FORT SULLY, DAK., February 7, 1880.

COUNTY OF SULLY,  
Territory of Dakota, ss :

I hereby certify that the foregoing is a true and correct copy of original letter now in possession of Lt. J. E. Macklin.

[SEAL.]

N. H. YOUNG,  
Notary Public.

OFFICE OF COMMANDING OFFICER,  
Fort Stanton, N. Mex., April 2, 1881.

Respectfully returned. Lieut. J. E. Macklin, Eleventh Infantry, did duty under me for almost two years at Fort Custer, Mont. During that time I never knew him to take a drop of any kind of spirituous liquors, and regarded him one of my most efficient officers. He was subordinate and prompt in his duties on all occasions, and full of energy. I earnestly recommend that he may be reinstated to his former position held in the Twenty-second Infantry.

GEO. P. BUELL,  
Colonel Fifteenth Infantry.

FORT LEAVENWORTH, KANS., January 26, 1884.

DEAR SIR: In reply to your communication stating that a bill for your relief and for your restoration to your former rank had been reintroduced into the House of Representatives, and requesting a letter advocating the passage of the bill, I can cheerfully state that it would afford me much pleasure to learn of the success of the bill and of your restoration as desired. The charges upon which you were dismissed in 1876 were prepared by my order and you were brought before the court for trial upon my recommendation. I was one of the chief witnesses for the prosecution. The duty was a very unpleasant one, because of the worth of your former services to the Government, and because I entertained the best wishes for your welfare.

I have not been personally observant of your course since your reappointment to the Army, and your services with the Eleventh Infantry, except since September last, when you reported at this post for instruction in the United States infantry and cavalry school. Since that time you have shown yourself to be, as I knew you in the past, a zealous, hard-working, and efficient officer.

Very respectfully, your obedient servant,

E. S. OTIS,  
Colonel Twentieth Infantry.

Lieut. J. E. MACKLIN,  
Eleventh United States Infantry.

A true copy.

FRANK B. ANDRUS,  
Second Lieutenant Fourth Infantry.

WAR DEPARTMENT,  
Washington City, December 2, 1879.

The Secretary of War has the honor to transmit to the House of Representatives, for the consideration of the Committee on Military Affairs, copy of petition of Second Lieut. James E. Macklin, Eleventh United States Infantry, for restoration to the original rank held by him in the Twenty-second Infantry, prior to his dismissal from the Army in November, 1876; together with copies of the review of the record of trial by the Judge Advocate-General, dated September 18, 1876, and of a subsequent report

of that officer in the case; also of the report transmitted by this Department to the House of Representatives, February 13, 1878, in connection with a bill granting Lieutenant Macklin the relief now requested.

Favorable action in the case is respectfully recommended.

GEO. W. MCCRARY,  
*Secretary of War.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

---

HEADQUARTERS ELEVENTH UNITED STATES INFANTRY,  
*Fort Sully, Dak, January 16, 1884.*

SIR: I have the honor respectfully to invite the special attention of the Military Committee to H. R. 436, for the relief of Second Lieut. James E. Macklin, Eleventh United States Infantry. Lieutenant Macklin was a second lieutenant of the Twenty-second Infantry, with date of 9th August, 1867. He was dismissed by sentence of a general court-martial, November 20, 1876, and on the 12th January, 1877, was appointed second lieutenant Eleventh Infantry.

I know nothing officially of the charges on which Lieutenant Macklin was tried and dismissed, but I am very sure that if he was a fit person to be appointed second lieutenant Eleventh Infantry on the 12th January, 1877, he was equally fit to have been retained a second lieutenant of the Twenty-second Infantry less than two months before.

Lieutenant Macklin has suffered a loss of nearly ten years in grade, a punishment utterly unjust if he is fit to be in the service at all.

He has been under my command for nearly a year, and I have found him a very careful and efficient officer. I respectfully recommend that he be restored to the place in the Twenty-second Infantry which he would now have occupied had he never left that regiment.

I am, sir, very respectfully, your obedient servant,

RICHD. I. DODGE,  
*Colonel Eleventh U. S. Infantry, Commanding.*

*The Chairman of the Military Committee House of Representatives,  
Washington, D. C. (Through Military Channels.)*

H. Rep. 621—2

○