

NEWTON C. RIDENOUR.

FEBRUARY 7, 1889.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SPOONER, from the Committee on Invalid Pensions, submitted the following

REPORT:

[To accompany bill H. R. 12273.]

The Committee on Invalid Pensions, to whom was referred the bill (H. R. 12273) for the relief of Newton C. Ridenour, respectfully report that the facts in the case are correctly set forth in the preambles to the bill. Upon the passage of the act of Congress approved June 3, 1884, which was manifestly only for the purpose of making the pension rate according to rank, the words that it should "be in lieu of all other pensions" were added. Thereafter when the pensioner made a claim for increase, on account of alleged increased disability, the same was rejected, without regard to the actual merits of the claim, and upon the ground that the words quoted in the special act barred the right to such increase. Upon appeal to the Secretary of the Interior this ruling was affirmed, and the following from the opinion of Hon. H. L. Muldrow, First Assistant Secretary, shows the view taken of the matter:

The appellant who is receiving a pension of \$7.50 per month for varicocele of left side, is pensioned as a second lieutenant under special act of Congress, approved June 3, 1884, which provides that said allowance shall be in lieu of all other pensions.

September 27, 1886, he filed an application for increase based on the original disability, and rheumatism. * * * Subsequently so much of this claim as related to the pensioner's disability was rejected, * * * on the ground that the appellant was then being paid the full amount therefor to which he was lawfully entitled, and that part thereof which embraced rheumatism was rejected on the ground that under the provisions of said Congressional enactment his right to an additional pension was barred. * * * The question involved is the construction of a private act which provides, * * * (quoting bill with part quoted above).

While it may be true, as claimed by appellant, that the only question passed upon by Congress was the question of rank, yet the Department is precluded from going back of the plain language of the statute. * * * Claimant's only relief must be obtained from Congress, * * * the power which created the act alone can correct the error.

It is plain that the quoted words in the act and which brought about this result were in fact there by error or without any relevancy to the object of the act itself, and to now give them the effect of barring all claims of the pensioner for an increase of pension, or for additional pension to which he may be entitled, is manifestly unjust and we believe entirely out of any Congressional intention in passing the act.

The present bill simply removes the effect of this construction and leaves the pensioner to the laws as they now exist, with simply the right to avail himself of them.

Your committee therefore report the bill favorably with the recommendation that it pass.