

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 28, 1879.—Ordered to be printed.

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

REPORT:

[To accompany joint resolution H. Res. 63.]

*The Committee on Military Affairs, to whom was referred the joint resolution (H. Res. 63) requiring the assembly of a court of inquiry in the case of Major Granville O. Haller, late of the Seventh United States Infantry, have had the same under consideration, and submit the following report:*

This joint resolution directs a military court of inquiry to be held for the purpose of determining whether this officer was properly and legally dismissed the Army; if yea, then the dismissal to stand; if nay, then the judgment of the court to operate as a revocation of the action by which he was summarily dismissed. The case was reported by General Maish, of the House Committee on Military Affairs, as follows:

[House Report No. 375, Forty-fifth Congress, second session.]

Mr. MAISH, from the Committee on Military Affairs, submitted the following report, to accompany joint resolution H. R. 63:

*The Committee on Military Affairs, to whom was referred the joint resolution (H. Res. 63) authorizing a court of inquiry in the case of Granville O. Haller, late of the Seventh Infantry, United States Army, having had the same under consideration, beg leave to submit the following report:*

Granville O. Haller entered the Army as second lieutenant of the Fourth Infantry on the 17th day of November, 1839. In 1840 he joined his regiment at Fort Gibson, and he saw active and continuous service in the Florida war as acting adjutant of his regiment.

In 1845 the Third and Fourth Regiments of Infantry became the "army of occupation" on the borders of Texas, and took possession of Saint Joseph's Island and Corpus Christi. He there acted as brigade major of the Third Brigade—a title now obsolete.

In 1846 the "army of occupation" marched to the Rio Grande, and encamped opposite Matamoras. He there was appointed commissary of the Third Brigade. Relinquishing that position for one of more active duties in the field, he participated in the battles of Palo Alto, Resaca de la Palma, Vera Cruz, Cerro Gordo, and in all the battles in the valley of Mexico.

In the terrible battle of El Molino del Rey he was one of the storming party, and was not only complimented by his superior officer for his gallantry, but on the 8th of September, 1847, received his commission of captain by brevet for gallant and meritorious conduct in that battle.

On the 13th of September, 1847, he was commissioned major by brevet for gallant and meritorious conduct in the battle of Chapultepec.

In 1852 Major Haller and his company were sent to the Pacific coast, and in 1853 was stationed at Fort Dalles, in the then Territory of Oregon. He actively participated in the Oregon Indian war of 1855 and 1856, and at or near the Yakima River, in Washington Territory, was surrounded by a vastly superior force of hostile Indians, fought for three days, and finally cut his way out, losing over a third of his command.

In 1859 Major Haller and his company were ordered to Fort Mojave, on the Colorado River, New Mexico.

In 1861 he was ordered to this city. Upon his arrival he found he had been promoted to the rank of major, was assigned to duty on Brig. Gen. Andrew Porter's staff, and appointed by him an assistant inspector-general in the provost-marshal's department; afterward was commandant of general headquarters during the Peninsula and Maryland campaigns. He was an active and vigilant officer, and as such enjoyed the confidence of his superior officers, and no one ever doubted his loyal devotion to his country until the 25th of July, 1863, when, by Special Order No. 331, without notice that any accusation had been made, and without any form of trial, he was dismissed the service by order of the Secretary of War. Up to the date of his dismissal he had served his country actively and faithfully, most of the time upon the frontier, for twenty-three years, eight months, and eight days.

He was dismissed on a deposition made by Commander Clark H. Wells, charging him with the utterance of disloyal sentiments. The alleged disloyal sentiments were represented by Wells as having been uttered in his presence and in the presence of Maj. Charles J. Whiting, Second United States Cavalry. Major Whiting, when called upon, denied under oath that Haller made use of the language attributed to him by Wells. Major Haller also denies that he gave utterance to the sentiments to which Wells deposed.

General James Tilton, civil engineer, chief inspector of the water supply of Washington City and Georgetown, D. C., in an affidavit made by him, among other things, said:

"In 1866 or 1867, being in the city of Washington, I met at the Ebbitt House the officer who was one of the witnesses to the alleged disloyal utterances. I had a conversation with this officer, Commander Clark Wells, U. S. N.

"I entered into a full conversation with him upon the subject of Major Haller, and Captain Wells then admitted to me that it was possible that he might have dreamed it, meaning the alleged disloyal utterances or toast said to have been drunk by Major Haller and Whiting of the Army in presence of Captain Wells.

"I then apprised Captain Wells that if ever Major Haller succeeded in obtaining a court of inquiry or court-martial upon the charges or allegations under which he had been dismissed I would certainly, if living, repeat this admission under oath, to which Captain Wells made no dissent, but expressed himself as personally friendly to Major Haller."

Major Haller received from his comrades in arms a number of letters bearing testimony to his skill and bravery as officer and his patriotism during the late war.

Two of these letters are especially important. One addressed to Major Haller, on February 9, 1874, by Maj. Francis H. Bates (captain and brevet-major, U. S. A., and late first lieutenant of Major Haller's company), furnishes such unmistakable evidence of Major Haller's devotion to his country at the outbreak of the rebellion that part of it is here given. Among other things, Major Bates says:

"I always thought and still think that a great mistake was made somewhere in your case. Knowing as I did the patriotic sentiments which governed all your conversation and actions during the dark days of 1860 and 1861, when we were on the frontiers of civilization at Fort Mojave, New Mexico, and subsequently at San Diego, Cal.; when, as we journeyed toward the settlements and were met and surrounded by the disloyal; when Albert S. Johnson and officers of all grades eagerly threw off their allegiance to our glorious 'stripes and stars,' and glittering prizes were offered to all who should join in that 'Texas band'; when no opposition was offered to their departure, and you and your small command, together with the small dragoon force and quartermaster department at Los Angeles, were nearly all that were left in that section to uphold the honor of our country; remembering all this, I say that if any sentiments of disloyalty had ever animated your breast, it seems to me that this would have been the time for them to have become apparent and betrayed themselves; but you were firm, and our small company, seeing and feeling the determination of their two remaining officers, smothered the rising mutterings that were ever appearing in their midst, stood true and loyal men, and by their firmness, together with the small force at Los Angeles and Yuma, saved, I verily believe, Lower California from joining the ranks of the secession States. There were many deeds of silent heroism and loyalty enacted in those early days upon our frontier, and of which history has taken no notice, which, had they been known, would have gone far toward the protection of the actors in them when accusations were afterward brought against them by superloyalists, whose chief stock in trade

consisted in aspersing the character and actions of the true men and patriots of such a true and loyal man as I believe you to have been.

"With great respect, I am your friend and former first lieutenant,

"F. H. BATES,

"Captain and Brevet Major, U. S. A.

"To GRANVILLE O. HALLER,

"Late Major, U. S. A., Ebbitt House, Washington D. C."

The other letter to which reference was made was written by Gen. John S. Crocker, U. S. A. It affords strong evidence of Major Haller's love of country at the time of the alleged utterance of disloyal sentiments. The letter is all so pertinent to this inquiry that it is given entire below:

WASHINGTON, D. C., February 9, 1875.

DEAR MAJOR: Since our conversation yesterday I have thought of the circumstances connected with your discharge from the Army, and well remember the universal expressions of regret of the officers and men with whom you served at what they deemed the great injustice that was done you. I know the valuable services you rendered your country in her greatest peril and throughout your long career of meritorious service. I distinctly remember your gentlemanly bearing, integrity of character, your bravery and skill as an officer, and therefore I earnestly sympathize with you, and believe the treatment you received was simply cruel. During the war you and myself served a long time at the headquarters of the Army of the Potomac; yourself as commandant of the post at general headquarters and I as colonel commanding the Ninety-third New York Volunteers, the headquarters guard. Thus our official and personal relations were of the most intimate character, and our duties such as brought us together more or less every day and night. Perhaps no officer was more intimately associated with you than myself in the performance of duty. I knew your sentiments, heard your expressions, and was an eye-witness from day to day to your zeal in the cause and to the faithful and efficient manner in which you discharged your onerous duties. Therefore I shall ever be able to bear witness to your bravery and skill as an officer, your untiring industry, your love of country and the good old flag, and your earnest loyalty and real merit.

Hoping and trusting our country will yet correct the wrongs unwittingly done you, I remain, very respectfully and truly, yours,

JOHN S. CROCKER,

Brevet Brigadier-General, U. S. A.

Maj. GRANVILLE O. HALLER.

Enough has been produced to show that a serious mistake was made somewhere. Here an officer who had served his country for more than twenty-three years, and always with honor and distinction, was summarily dismissed the service, upon the sworn *ex-parte* statement of a single person, without notice to him, or the opportunity to meet the charges and make a defense. Repeatedly has Major Haller demanded the opportunity to disprove these charges and vindicate his patriotism. Baffled upon every occasion, he has persisted in his demand until the present time. On March 3, 1865, an act of Congress was passed giving to officers dismissed by the President a right to a trial by court-martial. Its provisions are as follows:

"When any officer, dismissed by order of the President, makes in writing an application for trial, setting forth, under oath, that he has been wrongfully dismissed, the President shall, as soon as the necessities of the service may permit, convene a court-martial to try such officer on the charges on which he shall have been dismissed. And if a court-martial is not so convened within six months from the presentation of such application for trial, or if such court, being convened, does not award dismissal or death as the punishment of such officer, the order of dismissal by the President shall be void." (R. S., sec. 1230.)

In the original act the word "hereafter" occurs before the word "dismissed" in the first line. Whether by the omission of the word "hereafter" it was intended to make the section applicable to cases of dismissal anterior to the passage of the act it is for the purposes of this case unnecessary to discuss. It has been construed, it would seem, not to apply in this case. It, however, does afford a good reason why the relief asked for by Major Haller should be given. There was more reason for such a law when in the din and excitement of the war injustice was more apt to be done.

Major Haller demands a right which the Constitution and laws of his country are supposed to secure to every citizen, however high or however humble, a right to a fair and impartial trial by his peers. He has been asking for the privilege of vindicating his loyalty before such a tribunal ever since the order of his dismissal. Your committee believe it to be but justice to him, his friends and family, that he should have such right. If injustice has been done him, he ought to have the privilege of showing it.

The committee report back the joint resolution as amended, with the recommendation that it do pass.

This report states the facts correctly, as shown by the record. Inasmuch as Major Haller has not been afforded an opportunity to meet and disprove the charges, as he has repeatedly requested and urged, and that the act of March 3, 1865, which permits officers dismissed by order of the President to apply for and receive the judgment of a court-martial thereupon has been construed by the War Department not to apply to his case, your committee concur in the report of the House committee, and recommend concurrence of the Senate in the joint resolution.

○