

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 25, 1892.—Ordered to be printed.

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

REPORT:

[To accompany S. 1458.]

The Committee on Military Affairs have had under consideration the bill (S. 1458) for the relief of Robert Carrick and submit the following report:

The object of this bill is to place Robert Carrick on the retired list of the Army with the rank and pay of a first lieutenant. Carrick came to this country from Ireland when 18 years of age. In 1851, when 21 years of age, he enlisted as a private in Company I, Mounted Rifles. He was discharged March 19, 1856, at San Antonio, Tex., upon the expiration of his service. Within thirty days he reenlisted in New York on April 18, 1856, in Company H, Second Dragoons, and upon the expiration of his service was discharged as a first sergeant. In November, 1861, he was mustered into the volunteer service as major of the Third Missouri Cavalry, subsequently was promoted to be lieutenant-colonel of the same regiment; and in June, 1863, resigned his commission. On March 7, 1867, he was appointed a second lieutenant in the Eighth Cavalry, and on October 9, 1867, was promoted to be a first lieutenant in the same regiment. He served with his regiment until December 27, 1870, when he was mustered out of the service upon the recommendation of the Hancock retiring board. The findings of this board cast an imputation upon the character and habits of Carrick which a close examination of the evidence does not warrant. According to the record of the proceedings the board found:

That the habitual treatment of and bearing towards enlisted men under his command by First Lieut. Robert Carrick, Eighth Cavalry, are injurious to discipline, and render him unfit for the service; and the board does, therefore, recommend that he be mustered out of the service.

Carrick's record as an enlisted man was above reproach. When he was discharged at Fort Crittenden, Utah, April 18, 1861, Lieut. W. Merritt, commanding his company, wrote upon the discharge:

The bearer, Sergt. Robert Carrick, has been in the service ten years. He is sober, truth-telling, and honest; energetic in the discharge of his duties; was recommended as a man of fine business capacities as a soldier or civilian, and has been found to be such by his commanding officers.

Gen. John P. Hatch says of Carrick:

I was a first lieutenant in Company I, Regiment of Mounted Riflemen, in which Mr. Robert Carrick served during his first enlistment in the Army. He was an excellent soldier and a brave man. \* \* \*

At the time of the discharge of Mr. Carrick from the regular service in 1861, the news of the breaking out of hostilities between the North and the South had not reached Utah Territory. It was in the days before railroads and telegraph lines ran across that broad stretch of country. But as he journeyed east vague rumors became certainties; war had begun, and those men familiar with army life were in demand.

When Carrick first entered the Army, in 1851, he did so from choice; he intended to make it his profession. His ten years' experience as an enlisted man now stood him in good stead. He was made major of the Third Missouri Cavalry; but inasmuch as he was not elected, as it was the custom to a great extent, his position was not free from jealousy on the part of officers whom he had superseded. However, he was promoted to the grade of lieutenant-colonel. His regiment participated in several campaigns, and Maj. Carrick was specially commended for his bravery by Gen. Prentiss. Gen. John McNeil also made special mention of Lieut. Col. Carrick in connection with the dashing charge made by the Third Missouri on the enemy for the purpose of taking their artillery. In the battle of Chalk Bluffs, May, 1863, Carrick, while leading his regiment in a charge against the enemy, was wounded (Rebellion Records, vol. 22, pp. 259-276.) This led to his resignation.

In Carrick's volunteer record there appears but one blemish, so light that it ought not to be noticed. He was placed under arrest and ordered to be tried by court-martial on May 19, 1863. What the charges were which were preferred against him the records do not show. They were doubtless founded upon jealousy, with which Carrick had to contend, for upon June 8, 1863, he was ordered to report to his regiment for duty. On June 24, 1863, he tendered his resignation, which was accepted on June 26, 1863.

Although Carrick was now out of the service altogether he had no intention of remaining so. After recuperating from the effects of his wound he sought an appointment in the regular service. In his youth he had chosen it as his profession and shown aptitude for it. His record even as an enlisted man in campaigns against the Indians had proven his bravery, and it had been recognized by special orders while in the volunteer service. He had won the respect of his superiors and was an efficient and capable officer. He had no powerful friends to turn to for help. He was without friends except those he had made in the Army either as an enlisted man or as an officer of volunteers: With only one exception these friends most warmly indorsed Carrick for appointment in the regular service. Among his indorsers are Gen. P. St. George Cooke, U. S. Army, Col. Lewis Merrill, U. S. Army, Maj. Gen. B. M. Prentiss, United States Volunteers, Gen. J. M. Glover, United States Volunteers, Gen. J. M. Davidson, United States Volunteers. Lieut. Col. James A. Hardie was the one exception. He said:

Col. Carrick has chosen to seek promotion outside of the regular service and has been successful, having attained to a high rank in the volunteer service. It is not just that he should now be permitted to compete with his less fortunate companions who have remained in the regular service as noncommissioned officers for a commission in the service which he deemed it advantageous to leave.

Gen. Davidson says:

I inclose the within application. I can't see why doing service to the country in the volunteer arm should be a bar to this soldier's advancement.

The President did not see that such a bar existed, for he appointed Carrick to be a second lieutenant in the Eighth Cavalry March 7, 1867, and on October 9, 1867, he was promoted to be a first lieutenant.

ant. Carrick served with his regiment in Arizona, California, Nevada, and New Mexico until December 7, 1870. He received the thanks of his department commander for zeal and bravery in conducting a scout in Arizona in 1869 (General Orders, No. 58, September 30, 1869, Department of California). In one of the Indian campaigns Carrick injured himself, and is now drawing a pension for hernia. His pension also covers deafness and rheumatism, He now receives \$25 a month.

Carrick's service in the Army as an enlisted man and as an officer extends over a period of nearly sixteen years. On only one occasion prior to December 24, 1869, had he encountered anything which tended to tarnish his record. On May 21, 1863, while lieutenant-colonel of the Third Missouri Cavalry, he had been placed under arrest, but the charges were so puerile that Carrick was ordered back to his regiment almost as soon as he had reported himself to his commanding officer in arrest. But on December 24, 1869, charges almost as groundless, but which resulted more seriously, were preferred against Carrick. He was placed under arrest and awaited for three months trial by court-martial. The charges were of drunkenness on duty and conduct to the prejudice of good order and military discipline.

The specifications set forth that Carrick was drunk while in command of an escort and was unable to perform his duties. Also that he acted in a disgraceful manner in the presence of enlisted men of his command. Also that he abused Private Kenny by using profane language, and treated him in such a manner by tying Kenny behind a wagon that he caused the said Kenny to desert. It is further specified that Carrick drew his pistol and challenged any man in his escort to fight him. The specifications set forth that this alleged bad conduct of Carrick all happened on July 23, 1869.

The charges based upon the conduct of Carrick on July 23, 1869, were not preferred until December 24, 1869. Carrick remained under arrest until April 8, 1870, and on May 11, 1870, Gen. E. O. C. Ord, commanding the Department of California, ordered that no further action be had upon the charges preferred. The following letter, written by the judge advocate of the court-martial, who had every opportunity to investigate the soundness of the charges preferred against Carrick, shows groundless they were:

CAMP TOLL GATE, ARIZ.,

March 21, 1870.

GENERAL: I have the honor to forward the inclosed charges against Lieut. Carrick, Eighth Cavalry, to you at Camp Whipple, believing you will arrive there before the cavalry leave, in order that you may be able to act on the same, and respectfully invite your attention to the following:

The court convened at this post consists of but five members, the minimum allowed by law, two of whom are principal witnesses for the prosecution, and one an officer of the accused regiment, junior to him in rank, and therefore good grounds existed for the challenging of the above members; but Lieut. Carrick, feeling guiltless of the charges preferred against him, waived the right of challenge and desired to be brought to trial, having been in arrest and awaiting trial for three months. But an objection arose to the trial of the case, viz: Maj. Nelson and Bvt. Col. Young are both members of the court and principal witnesses for the prosecution, and it being laid down as a general rule by military writers on courts-martial that witnesses should be excluded during the examination of a witness, it was impossible to observe this rule and proceed with the trial, and the charges being serious I did not consider it advisable or just to the officer to proceed with the trial when a doubt of the legality existed, and my letter of instructions only authorized me to detail members in cases of enlisted men.

It may not be improper for me to state that I had prepared the case for trial before the above objection presented itself to my mind, and in justice to Lieut. Carrick should say that the statements made to me by the witnesses named do not sustain the specifications of the first charge, and in regard to the second charge and speci-

cations, I have examined many witnesses besides those named, and am unable to find testimony to substantiate them.

It appears that the detachment under his command, with a very few exceptions, were under the influence of liquor when they left Camp Mohave (the detachment consisted of 18), and very insubordinate, and that an organized plan for desertion was formed previous to the detachment leaving Toll Gate as escort for Col. Nelson, and that Lieut. Carrick was in no way responsible for said desertions; that he used harsh language and punished two of the party by tying them to the wagon for thirty minutes he does not deny, but it appears as if the circumstances warranted the same as far as the punishment goes, and in times of excitement a person will use language which at other times he would regret. Kenny was a very violent man when under the influence of liquor, and was a ringleader and endeavored to induce other men to join him and offer violence to the lieutenant.

If the statements made to me should be made under oath before a court (and I can find no reason why this would not be done, for I can detect no signs of intimidation or tampering with the witnesses or men being resorted to), I do not think it possible for a single specification being sustained.

I am, very respectfully, your obedient servant,

E. W. STONE,

*Bvt. Lt. Col. U. S. A., J. A. G. C. M.*

Maj. Gen. E. O. C. ORD, U. S. A.,  
*Commanding Department of California.*

And yet these charges, which were withdrawn because they were false and could not be in the slightest degree substantiated, were given as reasons why Carrick should be mustered out of the service. At that time Col. J. Irvin Gregg was in command of the Eighth Cavalry. Under section 11 of the act of Congress published in general orders July 22, 1870, Col. Gregg was ordered to report the names of officers in his regiment "deemed unfit for the proper discharge of their duties from any cause except injuries incurred or disease contracted in the line of their duty." In his report Col. Gregg says concerning Carrick:

Disqualified for the proper and efficient discharge of the duties pertaining to his position by reason of intemperate habits, an unreasonable, overbearing disposition toward enlisted men, and inability to control a violent and irascible temper, and to comply with paragraph 3, Revised Army Regulations. \* \* \* The documentary evidence in reference to habits of intemperance are the proceedings of a general court-martial, which convened at Camp Toll Gate, Ariz., on Wednesday, November 3, 1869, \* \* \* now on file in the office of the Judge-Advocate-General, Washington, D. C., and charges and specifications preferred against him by order of General Ord, a copy of which will be forwarded immediately on receipt.

The report of Col. Gregg recommending the dismissal of Carrick was made on September 13, 1870. He did not have before him the record of the court-martial nor any of the papers, letters, etc., filed in the case. His recommendation was based upon rumor incident to the proposed trial by court-martial. He judged Carrick to be guilty notwithstanding that old principle of law that every man is supposed to be innocent until he is proven guilty. Corroborative of the fact that Col. Gregg did not have the record before him is a letter which he addressed on August 15, 1870 to the assistant adjutant-general of the Department of California, in which Col. Gregg says:

In order to enable me to comply with instructions from headquarters, \* \* \* I respectfully request to be furnished with a copy of charges and specifications preferred against First Lieut. Robert Carrick, Eighth Cavalry, by order of department commander.

This request was sent through the various military channels to the headquarters of the Department of the Missouri, where it was acted upon September 26, 1870, thirteen days after Col. Gregg had recommended that Carrick be dropped.

Years after Col. Gregg made that recommendation he tried to repair the wrong by sending to the Hon. B. M. Cutcheon, chairman of the

Committee on Military Affairs of the House of Representatives, the following letter:

WASHINGTON, May 13, 1890.

SIR: I notice that a bill has been introduced into the House to place on the retired list of the Army Robert Carrick, late a lieutenant in the Eighth United States Cavalry.

Mr. Carrick was discharged the military service of the United States under the law of 1870, reorganizing and reducing the Army, with one year's pay.

Under that law regimental commanders were required to report any officers of their regiment who were disqualified for their positions.

I was the colonel and at that time in command of the Eighth Cavalry, and reported Lieut. Carrick as unfitted for the position he then held. That report forms part of his record that will be filed with his application.

It is only justice to Mr. Carrick for me to say that my report was made without a full knowledge of the facts in his case and that if I had then known what I afterward learned in his case my report would not have been made and Carrick would to-day be on the retired list of the Army.

Prior to the rebellion Carrick had served two enlistments in the regular cavalry and was discharged as a sergeant. He was a trained and disciplined soldier, and in that capacity his services were at that time very valuable to the Government, and he was commissioned as major in the Third Missouri Volunteer Cavalry and subsequently promoted to lieutenant-colonel of the same regiment. Of these services it is unnecessary for me to speak.

Owing to the fact that the companies of the Eighth Cavalry were stationed from the line of British Columbia to the boundary between the United States and Mexico it was impossible for me to become acquainted with many of the officers of my regiment; hence when I was called upon for a report it was necessary for me to rely upon such information as I could get.

Lieut. Carrick was, at the time my report was made, suffering from injuries received in the line of duty, which were disabling in their nature, and on which he would have been entitled to retire. Of this fact I was ignorant.

I trust that his case may receive the fullest consideration, and that he may be granted the relief he asks for.

I am, sir, respectfully, your obedient servant,

J. IRVIN GREGG,  
Colonel, U. S. Army (retired).

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

The case of Carrick has been before Congress before. In the Forty-ninth Congress Mr. Harrison, a member of this committee, made an adverse report founded upon reports submitted by the War Department. It is evident that Mr. Harrison did not have before him when he made the report referred to the court-martial proceedings; the affidavits of witnesses testifying as to the condition and conduct of Carrick on July 23, 1869; the letter of Judge-Advocate-General Stone, and, as a matter of course, the letter written by Gen. Gregg May 13, 1890. The number of the report made by Mr. Harrison is 501, Forty-ninth Congress. An effort was made during the last Congress to have the case acted upon, but without success.

Carrick is now an old man. At the time he was mustered out he was the senior first lieutenant of his regiment, and in a short time would have been promoted to a captaincy. It was his intention to apply, after his promotion, to be retired on account of disability incident to the service. That this disability existed is shown by the fact that he now draws a pension for hernia, rheumatism, and deafness. He is a poor man, has a large family entirely dependent upon him for support, and is now employed as a watchman in the Treasury Department. He has tried in a feeble way to right the wrong which was done him, but his career as an enlisted man, as a volunteer officer, and as an officer in the regular service gave him but little opportunity to meet men or make friends who could assist him in his efforts.

The papers in the case have been carefully examined, and while your committee appreciate the fact that the reduction of the Army in 1870 was rendered imperative by law, it is also sensible of the fact that injustice was done to a soldier without friends and upon a recommendation not founded in fact.

Your committee therefore desire to right this wrong and recommend the passage of this bill with the following amendment:

Add to the bill the words:

*Provided*, That from the date of his appointment and retirement any pension to the said Carrick shall cease and determine.

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