

**RELIEF OF CERTAIN ENLISTED MEN OF THE TWENTIETH
REGIMENT OF NEW YORK VOLUNTEER INFANTRY.**

FEBRUARY 18, 1905.—Ordered to be printed.

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

REPORT.

[To accompany H. R. 1860.]

It is recommended that this measure "For the relief of certain enlisted men of the Twentieth Regiment of New York Volunteer Infantry" be favorably considered.

This is a bill enacting, in substance, that an order of the President, made in 1866, that these 198 men shall be taken to have been honorably discharged in June, 1863, shall be held good.

These men, mostly Germans, enlisted in the Twentieth New York Volunteers. They were enlisted first as New York troops for two years. They were enlisted and mustered on April 29. They were transferred to United States service May 6, partly for three months and the balance for two years. Changes were afterwards made on the muster rolls of the three months' men so as to make all for two years. Their service was good till April 29, 1863, when the two years had expired, and these 198 men stacked their arms and handed in petitions stating that their terms of enlistment had gone by. They were tried by court-martial for mutiny in the face of the enemy, an engagement being expected, though they had not been informed of that fact. They were convicted and sentenced to be dishonorably discharged, and to be held as convicts during the remainder of the war.

Their behavior was so good that they were almost immediately put upon parole and worked as pioneers in the field until the summer of that year, when the President in consideration of favorable reports from the commanding general and from the provost-marshal ordered

them to be sent home with transportation, their regiment having been discharged in June. Accordingly they were sent home on August 31, 1863. In 1866, on recommendation of General Grant, an order was made setting aside their dishonorable discharge and granting them an honorable discharge in lieu thereof. This order has been held invalid because the dishonorable discharge had already taken effect, and this bill will validate this order. All of them served the full term of their enlistment. They took their punishment like men, and were punished enough.

The bill was drawn by the Chief of the Record and Pension Office of the War Department.

It has seemed to the War Department that in justice to these men the relief that the Executive undertook to give them in 1866, for reasons that were considered satisfactory at that time, ought to be given to them now by legislation, and with that end in view, at the request of the chairman of the Military Committee of the Senate, this bill was introduced in the Senate several years ago, but has thus far failed of enactment. The same bill is now pending in both the Senate and House of Representatives.

APPENDIX A.

Relief of enlisted men of the Twentieth New York Infantry Volunteers.

It appears from the records of this office that the Twentieth New York Infantry was mustered into the service of the United States from May 6 to 9, 1861, at New York City, the field and staff and Companies A to E to serve for the term of three months, and Companies F to K to serve for the term of two years. The field and staff and Companies A to E, however, appear to have been turned over to the United States on August 22, 1861, to serve for the period of two years.

The names of the members of this regiment for whose relief the pending bill has been introduced are as follows:

Company A.—First Sergt. Gustav Seiffart; Sergts. August Tolke, Julius Frick, John Wagner, and Emil Toppel; Corpis. William Wolf, Charles Kraemer, Bernhardt Kellner, Friedrich Merk, August Braun, and Melchoir Bader; privates Christian Betterhauser, Joseph Bos, Carl Richter, Adolph Ruedel, Leonard Schmidt, Georg Schulein, Julius Rast, Friedrich Buob, Martin Bang, Joseph Fessler, Philipp Freisenhner, Georg Gassert, Joseph Kayser, Charles Knecht, Charles Kramer, August Lagler, Hugo Liebe, Friedrich Martin, Martin Muller, Charles Munster, Carl Scheidemanter, Christian Schulz, Hugo Trabold, Otto Troetschler, Joseph Wankmuller, and August Herrmann.

Company C.—Sergt. Gerhardt Hansotter; Corpis. Joseph Bachmann and Louis Hof; Privates Friederich Lebeis and Adam Werner.

Company D.—Private Louis Kreicker.

Company E.—Sergt. George Baehr; Corpl. Albert Bries; Privates Henry Heisig, George Hofer, Jacob Hartenbach, Albert Hillebrandt, Rudolph Krauss, Michael Klingenschmidt, Johann Kuns, Philipp Kappesser, Carl Kruger, William Lambert, Friederich List, Henry Mitteladorf, David Muller, John Nahn, Friedrich Pfeiffer, Friedr. Wilhelm Rabe, and John Schaaß.

Company F.—First Sergt. Charles Steeger; Sergts. John Kloss, William Kuhne, William Yaumann, Frederick Closs, and Andrew Platz; Corpis. Otto Lienhard, Edward Maurer, Theodor Wagner, Friedrich Oxenius, and Christoph Niederer; Privates Philip Aschenbach, George Bachmann, Andrew Baus, Edward Carl, Jacob Christ, Robert Ermich, August Ganselen, John Genter, Arnold Grefner, Ernst Greiner, Arthur Hanbold, Ernst Hanbold, William Haug, August Hildebrandt, Louis Heine-mann, Ludwig Husschmidt, Adam Jacobi, John Kaus, Ehrhart Keller, August Kirchoff, August Korn, George Lantz, Philipp Lendel, Gustav Lichtenberg, August Lubbers, Joseph Maisch, Jacob Meindel, Emil Ney, Martin Niepoth, John Rauch, Michael Schneider, William Schneider, Charles Seger, Julius Sucker, Joseph Unger, Hermann Volderaner, Conrad Wagner, Philip Weber, John Werner, and William Zimmermann.

Company G.—Sergts. Carl Puschel, Charles Knoth, and Christian Wagenhals; Corpis. David Begul and Friederich Wallono; Privates Frederick Boach, Adolphus Bramm, George Denker, Diedrich Depken, Georg Flury, William Guchenhahn, Henry Heckler, Felix Hekne, Ferdinand Huben, Philipp Kerber, August Krech, Marcus Lauer, Louis Marx, Joseph Pfeifer, John Rosen, Henry Satzky, Conrad Schuster, Henry Tomson, John Topfer, Philipp Unfrecht, Peter Wagner, and Frederick Zinke.

Company H.—Corpis. Louis Suiner, Henry Beusch, Frederick Schaefer, August Eles, and Frederick Hildebrandt; Privates Frederick Althus, August Bartholome, William Dahlem, Louis Deveaux, Henry Hahne, John Heintz, Henry Kramer, Adam Lantz, Charles Leppert, Peter Linder, Jacob Martin, Henry Mayer, Edward Certle, August Perpente, Edward Perpente, John Kramer, Charles Pfeiff, Henry Pochhaber, Peter Rausch, George Rink, Leopold Salomon, Albert Stubner, and Hegmann Uth.

Company I.—Corpis. Albert Kraatz, Fritz Jaide, Richard Fritz, Louis Muller, and Joseph Eupp; Privates John Camichel, Frederick Dockendorf, Charles Dornhoefer, Robert Fritz, Edward Franke, Julius Grub, Ludwig Gray, Charles Haeefe, Jakob Heid, Valentin Hohmann, Christian Koerner, Valentin Lehmann (also borne as Charles Lehmann), Frederick Mueller, Engelbert Muerke, Louis Merschner, Conrad Nies, Ludwig Pattberg, William Ruehl, Peter Schmidt, Henry Straube, William Smith, Adolf Schmidt, William Wiesmann, Charles Ehrlich, Hermann Denzler, and Conrad Heckeroth.

They were arraigned before a general court-martial, the proceedings of which were promulgated in orders of which the following is a copy:

GENERAL ORDERS,
No. 24.

HEADQUARTERS SECOND DIVISION, SIXTH CORPS,
May 6, 1863.

[Extract]

1. Before a general court-martial convened at headquarters Third Brigade, Second Division, Sixth Corps, by virtue of Special Orders, No. 84, of April 20, 1863, from headquarters Second Division, Sixth Corps, of which Brig. Gen. T. H. Neill is president, were arraigned and tried.

* * * * *

4. First Sergt. Gustav Seyforth, Company A, Twentieth Regiment New York Volunteers, of the United States service, and 198 other enlisted men of the same regiment, on the following charge and specification:

Charge.—Mutiny and misbehavior before the enemy.

Specification.—In this, that First Sergt. Gustav Seyforth and 198 other enlisted men, all of the Twentieth New York State Volunteers, of the United States service, the said Twentieth New York Volunteers forming part of the Third Brigade, Second Division, Sixth Corps of the Army of the Potomac, and being in the face of the enemy and a battle expected, did willfully refuse to do duty. All this on or about the 29th April, 1863, near the Rappahannock River, Virginia.

Plea.—To the specification, "Not guilty;" to the charge, "Not guilty."

On mature deliberation on the evidence adduced, the court found the prisoners, each and every one of them, as follows:

Of the specification, "Guilty."

Of the charge, "Guilty."

And the court does therefore sentence them, each and every one of them, to forfeit all pay, bounties, and allowances, which are or may become due them, respectively, to be dismissed from the service of the United States with a dishonorable discharge; then to be confined at hard labor, in charge of the guard, during the remainder of the war, at such place as the proper authorities may direct.

2. The proceedings of the court in the several cases of the accused members of the Twentieth Regiment New York Volunteers, mentioned in the foregoing proceedings, are approved and the sentence in the cases is confirmed.

* * * * *

By command of Brigadier-General Howe:

CHAS. MUNDEE,
Assistant Adjutant-General.

On a petition presented by Mrs. Lehman, of Brooklyn, N. Y., for the pardon of her son, Charles Lehman, of Company I, of this regiment, the provost-marshal-general of the Army of the Potomac reported, on June 25, 1863, as follows:

"The 197 men of the Twentieth New York Volunteers, under sentence of general court-martial, are detained at this office on word of parole and doing pioneer work, their sentence of confinement and hard labor having been commuted in view of the

consideration that their case presents strong palliating circumstances. It is the intention of the commanding general soon to remit their sentence altogether and release them."

This officer again reported on July 31, 1863, on a paper relating to these men, as follows:

"The inclosed paper, received this morning, is respectfully returned with the remark, that although not personally acquainted with the circumstances attending the stacking of their arms by these men, I believe from all the information I have received on the subject, that they fully believed they had both law and justice on their side.

"Of their conduct since they were turned over to me I can speak from my own observation.

"My attention was first attracted by their industry, prompt and cheerful compliance with orders, and respectful bearing. I soon found they could be trusted, and sent them off on duty without a guard. On the 13th of June I stated their case to General Hooker, and recommended that they be put on the road during this campaign, as prisoners, laborers, etc., with the understanding that if their conduct should continue to merit approval I would, after the close of the campaign, so report to him, and he would remit the remainder of their sentence.

"If not released before the campaign closes, I shall then state the facts to General Meade, and request their release and pardon; their conduct having been of the most satisfactory and praiseworthy character.

"If, however, it shall please the President to act in the case, it will be preferable to the course I had proposed to pursue, and I would earnestly recommend that they be pardoned."

The unexecuted part of their sentence was remitted in Special Orders, No. 360, paragraph 12, War Department, Adjutant-General's Office, dated August 13, 1863, and under date of October 28, 1863, the provost-marshal-general of the Army of the Potomac again reported on a petition requesting the release of the men that:

"These men left in a body on the 31st of August, public transportation to New York having been furnished them by the War Department."

A petition for the relief of these men was addressed on March 9, 1866, to Lieut. Gen. U. S. Grant, commanding the armies, who forwarded it to the Secretary of War, favorably recommended, whereupon an order was issued in their cases as follows:

SPECIAL ORDERS,
No. 152.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, April 4, 1866.

6. The proceedings, findings, and sentence of the general court-martial convened by Special Orders, No. 84, Headquarters Second Division, Sixth Corps, April 20, 1863, in the cases of the following-named enlisted men of the Twentieth New York Volunteers, are hereby set aside. They will be restored to duty, and upon application to the chief mustering officer of New York, at Albany, N. Y., will be honorably mustered out of the service of the United States, to date June 1, 1863, the date of the muster out of that regiment, and paid their back pay, etc. The Paymaster-General will settle their accounts.

By order of the Secretary of War:

E. D. TOWNSEND,
Assistant Adjutant-General.

On October 13, 1894, the Commissioner of Pensions requested to be informed whether Herman Volderauer, late of Company F, of the Twentieth New York Volunteers, one of the mutineers of the regiment, received an honorable discharge. Thereupon the papers in the case were referred, November 5, 1894, to the Acting Judge-Advocate-General of the Army, with request for an expression of opinion as to whether, in view of the sentence of the general court-martial, the soldier named, and the others tried with him, were honorably discharged to date June 1, 1863, the date of muster out of the Twentieth New York Volunteers.

The papers were returned by that officer November 10, 1894, with report as follows: "Inasmuch as in these cases the dishonorable discharge by sentence of court-martial took effect May 6, 1863, and so much of the sentences as relate to dishonorable discharge thereby became executed (the unexecuted part being, by an order of August 13, 1863, remitted), the order of the War Department of April 4, 1866, by which it was undertaken to set aside the proceedings and substitute honorable discharges for the already executed dishonorable discharges, was inoperative."

The opinion of the Acting Judge-Advocate-General was concurred in November 12, 1894, by the Acting Secretary of War, after a personal consideration of the case.

The Secretary of War having personally considered the subject, affirmed the decision of the Acting Secretary of War, and the views of the Department upon the matter are fully stated in a letter written by direction of the Secretary, as follows:

RECORD AND PENSION OFFICE, WAR DEPARTMENT,
Washington, April 30, 1896.

Sir: In reply to your communication of the 22d instant relative to the pension claim of Mrs. Mary L. Weber, widow of Philip Weber, late of Company F, Twentieth New York Volunteers, I am directed by the Secretary of War, who has personally considered your inquiry, to return herewith the papers which accompanied your letter and to advise you as follows:

It appears from the records of this office that Philip Weber, together with 198 other members of his regiment, was arraigned before a general court-martial and tried on the charge of mutiny and misbehavior before the enemy. He was found guilty and sentenced to forfeit all pay, bounty, and allowances, to be dismissed from the service of the United States with a dishonorable discharge, and then to be confined at hard labor in charge of the guard during the remainder of the war, at such place as the proper authorities might direct. The proceedings of the court-martial were approved, and the sentence was confirmed and promulgated in general orders dated May 6, 1863.

On May 7, 1863, the Twentieth New York Volunteers was ordered home to be mustered out of the service, and was mustered out accordingly on June 1, 1863. The men who had been tried and convicted by the court-martial and had been dishonorably discharged from service by the confirmation and promulgation of the sentence of the court on May 6, 1863, did not accompany the regiment home to the State of New York, but were held as convicts in confinement under the unexecuted portion of their sentence, which required them to be confined at hard labor during the remainder of the war.

On August 13, 1863, an order was issued from the War Department remitting the unexpired portion of the sentence of these men—viz, confinement until the end of the war—and the prisoners were accordingly released.

On April 4, 1866, nearly three years after these men had been separated from the service and had become civilians, and nearly three years after the whole regiment had been mustered out of service, an order was issued from the War Department by which it was undertaken to set aside the proceedings of the court-martial and to honorably discharge the men convicted by it and sentenced to be dishonorably discharged.

On October 12, 1894, the Commissioner of Pensions, who had been furnished by this Department with a transcript of the military record of another member of this regiment, whose status is the same as that of Weber, returned the papers with request to be informed whether or not the soldier was honorably discharged from the service. Thereupon the case was investigated and exhaustively considered, and it was decided by the Acting Secretary of War that inasmuch as the dishonorable discharge by sentence of court-martial took effect May 6, 1863, the order of April 4, 1866, by which it was undertaken to set aside the proceedings, findings, and sentence, and to substitute an honorable discharge for the already executed dishonorable discharge, was inoperative. This decision was communicated to the Commissioner of Pensions, who was also advised to the effect that the final military record of the soldier in question was that of dishonorable discharge on May 6, 1863. Upon further inquiry from the Commissioner of Pensions he was advised that this decision applies equally to Weber and all the other men who were tried, convicted, and sentenced with him.

It will be seen from the foregoing statement that the action of the War Department in this case was made necessary by an inquiry from the Commissioner of Pensions as to the manner in which these men were separated from the service, i. e., whether they were separated from the service by operation of the sentence of the court-martial in 1863 or by operation of the order issued by the War Department in 1866, after these men had been civilians and beyond the control of the military authorities for nearly three years. The decision of the Department was based upon the well-established rule that there can be no revocation or modification of a court-martial sentence that has been lawfully carried into execution, no matter how unjust or unmerited this sentence may be deemed to have been. So much of the sentence of these men as directed their dishonorable dismissal as soldiers in the military service of the United States was executed upon the approval and promulgation of that sentence by competent authority. From that moment they were no longer in the military service, although held for a time as convicts undergoing punishment, and

consequently could not again be discharged from that service unless they should first reenter it, and this they did not do.

Nor has it ever been in the power of any branch of the Executive since May 6, 1863, to revoke the order which dishonorably discharged these men. The dishonorable discharge is a thing done which can not be undone, and the order which is evidence of it is incapable of revocation or recall. Ever since the date of that order the men have been as entirely beyond the reach of any lawful action of the War Department in this direction as they would have been if the court-martial had sentenced them to death instead of discharge and the sentence had been executed.

For the reasons set forth above the Department was constrained, when asked, in effect, by the Commissioner of Pensions to decide whether the order of May 6, 1863, or that of April 4, 1866, took these men out of service, to hold that the latter order was void ab initio and entirely without effect, because the persons whose status it was intended to change by it were beyond the reach of its influence or effect, having been separated from the military service by the former order, and having had for nearly three years no nearer or other relation to that service than civilians who never had been in the Army.

I am further directed by the Secretary of War to inform you that the decision in question has been fully considered and is concurred in by him.

Herewith are inclosed copies of the papers relating to this case, viz, orders of May 6, 1863, August 13, 1863, and April 4, 1866.

Very respectfully,

F. C. AINSWORTH,
Colonel, U. S. Army, Chief Record and Pension Office.

Hon. JOHN H. MITCHELL,
United States Senate.

Respectfully submitted.

F. C. AINSWORTH,
Colonel, U. S. Army, Chief Record and Pension Office.

RECORD AND PENSION OFFICE,
War Department, May 14, 1896.

THE SECRETARY OF WAR.

APPENDIX B.

Copy of court-martial.

SPECIAL ORDERS,
No. 84.

HEADQUARTERS SECOND DIVISION, SIXTH CORPS,
April 20, 1863.

A general court-martial is hereby appointed to meet at headquarters Third Brigade at 9 a. m. to-morrow, April 21, 1863, or as soon thereafter as practicable, for the trial of such prisoners as may be brought before it.

Detail for the court: Brig. Gen. T. H. Neill, commanding Third Brigade; Lieut. Col. W. B. French, Seventy-seventh New York Volunteers; Maj. H. Van Buskirk, Twenty-first New Jersey Volunteers; Capt. J. W. Channing, Seventh Maine Volunteers; Capt. H. R. Walter, Twentieth New York Volunteers; First Lieut. Frederick Smith, Seventy-seventh New York Volunteers; First Lieut. A. M. Benson, Seventh Maine Volunteers. Capt. A. W. Braze, Forty-ninth New York Volunteers. Is appointed judge-advocate.

No other officers than those named can be assembled without manifest injury to the service.

The court to sit without regard to hours.

By order of Brigadier-General Howe:

CHAS. MUNDER,
Major and Assistant Adjutant-General.

IN THE FIELD, NEAR RAFFANNOCK RIVER,

IN THE FACE OF THE ENEMY,

10 o'clock a. m., May 1, 1863.

The court met pursuant to the above order.

Present: Brig. Gen. T. H. Neill, commanding Third Brigade; Lieut. Col. W. B. French, Seventy-seventh New York State Volunteers; Maj. H. Van Buskirk, Twenty-

first New York Volunteers; Capt. J. W. Channing, Seventh Maine Volunteers; Capt. H. R. Walter, Twentieth New York Volunteers; First Lieut. Frederick Smith, Seventy-seventh New York Volunteers; First Lieut. A. M. Benson, Seventh Maine Volunteers; Capt. A. W. Brazer, Forty-ninth New York Volunteers, judge-advocate.

The accused and each of them also present.

The judge-advocate, having read the order convening the court, asked the said accused if they or any of them had any objection to any member named therein, to which they replied that they had not.

The court was then duly sworn by the judge-advocate and the judge-advocate was duly sworn by the presiding officer of the court in the presence of the said accused and each of them.

The accused having applied for counsel, were allowed to call Capt. Henry R. Kluckhuber and Capt. J. Hoeding, Twentieth New York Volunteers, who appeared.

The said accused and each of them were then duly arraigned upon the following charge and specification, viz:

Charge and specification preferred against First Sergt. Gustav Seyforth, Company A, Twentieth Regiment New York State Volunteers, of the United States service, and 200 other enlisted men of the same regiment, viz:

Charge.—Mutiny and misbehavior before the enemy.

Specification.—In this, that * * * all of the Twentieth Regiment New York State Volunteers, of the United States service, the said Twentieth Regiment New York State Volunteers forming part of the Third Brigade, Second Division, Sixth Corps, of the Army of the Potomac, and being in the face of the enemy and a battle expected, did willfully refuse to do duty.

All this on or about the 29th day of April, 1863, near the Rappahannock River, Virginia.

To which the said accused and each of them did plead as follows: To the specification, "Not guilty;" to the charge, "Not guilty."

ERNST VON VEGASUCH, a witness called by the prosecution, and being duly sworn, testified:

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, and regiment?—A. Ernst Von Vegasuch, colonel Twentieth New York Volunteers.

Q. What length of time have you commanded your regiment?—A. I took command July 17, 1862.

Q. To what brigade, division, and corps was it attached on the 29th of April, 1863?—A. Third Brigade, Second Division, Sixth Corps.

Q. On the morning of that day what was the position of the regiment, brigade, division, and corps with reference to the enemy?—A. The brigade was in column by divisions in the woods within about a mile and a half of the Rappahannock River. The enemy were reported to be in force across the river.

Q. What orders, if any, did you receive on the morning of the 29th of April, 1863; at what hour; and what did you do?—A. I received an order to fall in and follow the Forty-ninth Regiment; this was about 5 or 6 o'clock. I promulgated it to the commanders of companies in my regiment through the adjutant.

Cross-examined by ACCUSED:

Q. Did you take any other steps or use any other means to have the order obeyed, and what efforts did you make to get the order obeyed?—A. None.

Q. Did the accused know they were in the face of the enemy?—A. They were not informed by me, but I am convinced that they knew it.

Captain STORCKEL, a witness called by the prosecution, was sworn.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, and regiment?—A. Herman Stoechel, captain Company C, Twentieth New York Volunteers. I have commanded since the 28th of November, 1862. I received the order to fall in and march at about 5 or 6 o'clock a. m. on the 29th of April, 1863, and ordered the men to fall in. The men of my company whose names appear on this memorandum (the specification) refused to obey the order and they have refused to do duty since that time; the same day at 12 o'clock they again refused. This was about 3 miles from the enemy; I did not know the exact position of the enemy; the men before the court are the same who refused to do duty and whose names I have given.

ALBERT HOLSWORTH, called by the prosecution, was sworn.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, and regiment?—A. Albert Holsworth, first lieutenant Company A, Twentieth Regiment New York State Volunteers.

JUDGE-ADVOCATE. Men of Company A, stand up.

By the JUDGE-ADVOCATE:

Q. Do you identify these men now standing before the court as the men of your company who refused to do duty on the morning of the 29th of April, 1863?—A. Yes, sir; I commanded the company that morning and have since. They were asked to come over to the regiment yesterday and do duty and they refused. Their names are correctly stated in the list (specification).

H. BENCHES, called by the prosecution, was sworn.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, company, and regiment?—A. Herman Benches; captain Company F, Twentieth Regiment New York State Volunteers.

JUDGE-ADVOCATE. Men of Company F stand up.

By the JUDGE-ADVOCATE:

Q. Do you recognize these men now standing before the court as the men who refused to do duty in your company on the morning of the 29th of April, 1863?—A. Yes, sir; their names are correctly stated in the list [specification]; they also refused again at noon of the same day—have done no duty since. I commanded them then and have since.

ADOLPH BENCHER, called by the prosecution, was sworn.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, company, and regiment?—A. Adolph Bencher; Company G, New York State Volunteers.

JUDGE-ADVOCATE. Men of Company G stand up.

By the JUDGE-ADVOCATE:

Q. Are these the men of your company who refused to do duty on the morning of the 29th of April, 1863?—A. Yes, sir.

Q. Are their names correctly stated here [showing the list in the specification]?—A. Yes, sir.

Q. Were you in command at the time in question?—A. Yes, sir.

WILLIAM HAFNER, called by the prosecution, was sworn.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, company, and regiment?—A. William Hafner, captain Company I, Twentieth Regiment New York Volunteers.

JUDGE-ADVOCATE. Men of Company I stand up.

By the JUDGE-ADVOCATE:

Q. Are these the men standing before the court who refused to do duty in your company on the morning of the 29th of April, 1863?—A. Yes, sir.

Q. Are their names correctly stated here [showing specification]?—A. Yes, sir.

HENRY WALTER (member of the court) was called as a witness and sworn for the prosecution.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, company, and regiment?—A. Henry Walter, captain Company H, Twentieth Regiment New York Volunteers.

JUDGE-ADVOCATE. Men of Company H stand up.

By the JUDGE-ADVOCATE:

Q. Are these the men standing before the court of your company who refused to do duty on the morning of the 29th day of April, 1863?—A. Yes, sir.

Q. Are their names correctly stated in this list [showing specification]?—A. Yes, sir. I commanded at the time, and have since.

Fritz Letsizer was called by the prosecution and sworn.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, company, and regiment?—A. Fritz Letsizer, captain Company D, Twentieth New York State Volunteers.

JUDGE-ADVOCATE. Men of Company D stand up.

By the JUDGE-ADVOCATE:

Q. Do you recognize the men now standing before the court as the men of your company who refused to do duty on the morning of the 29th of April, 1863?—

A. Yes, sir.

Q. Are their names correctly stated in the list [showing specification]?—A. Yes, sir.

Q. Who commanded your company that morning and what was the position of the regiment?—A. I commanded the company. The regiment was a mile and a half from the river when we got the marching orders. I expected an engagement. We had eight days' rations and 80 rounds of ammunition.

HENRY KLOBBER, called for the prosecution, and sworn.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, company, and regiment?—A. Captain Company E, Twentieth Regiment New York State Volunteers.

JUDGE-ADVOCATE. Men of Company E stand up.

By the JUDGE-ADVOCATE:

Q. Do you identify the men standing before the court as the men who refused to do duty in your company on the morning of the 29th of April, 1863?—A. Yes, sir.

Q. Are their names correctly stated in this memorandum [showing the specification]?—A. Yes, sir.

Q. Were you in command at the time in question?—A. Yes, sir. They were asked to come over to the regiment yesterday and they refused.

WILLIAM H. LONG, called by the prosecution, was sworn.

By the JUDGE-ADVOCATE:

Q. What is your full name, rank, and regiment?—A. William H. Long; captain and assistant adjutant-general, Third Brigade, Second Division, Sixth Corps.

Q. State the position of the Twentieth Regiment New York State Volunteers, of the Third Brigade, and Second Division Sixth Corps, on the morning of the 29th of April, 1863, and how far from the enemy.—A. The brigade was encamped in the woods about 1 mile from the Rappahannock River, three-fourths of a mile south of which the enemy were in force—a portion of the corps, about 50 boat loads had crossed the Rappahannock and driven the enemy from the rifle pits on the other side—this was about 4 o'clock a. m. There was one sharp volley at that time. I heard the volley half a mile in rear of the bivouac of the Twentieth New York Volunteers. It was generally understood that we would have an engagement that day.

The judge-advocate here announced that the evidence for the prosecution was closed.

The accused asked for one hour and a half to prepare their defense; which was granted by the court.

At the expiration of two hours ENGLEBERT SCHNEPPF, lieutenant-colonel Twentieth New York State Volunteers, was called for the defense and sworn.

Q. State what you know of the muster into the service of the companies of the Twentieth Regiment New York State Volunteers.—A. Companies A, I, and K were mustered into the service of the State of New York for two years on the 27th day of April, 1861. The other companies of the regiment except one, and which one I can not tell, were sworn in on the 29th of the same month. The whole regiment was sworn into the service of the United States on the 6th of May, 1861, Companies A, B, C, D, and E for the term of three months and the others for two years.

Q. How did such companies as have been sworn into the United States service for three months only come to serve from the 6th of May, 1861, to the 29th of April, 1863? Were they turned over by the State or sworn into United States service again after the expiration of three months?—A. Yes; they were turned over. Colonel Weis was complained of in the newspapers that he sold the men to Washington. The men when they came to be paid refused to take their pay; this was about August, 1861.

The paymaster refused to pay them unless they were in the United States service; this was wrote to the governor of the State of New York, and he made an order turning the regiment over to the United States for the term of service—for two years

from the 6th of May. I understood we were turned over for the balance of our enlistment.

JOSEPH HOEFFLING, called for the defense, was sworn (Company K, Twentieth Regiment, New York Volunteers, counsel for prisoner).

By the ACCUSED:

Q. Do you know anything about the time for which different companies of the Twentieth New York State Volunteers were taken into the United States or Stateservice and what do you know?—A. Companies I and K were sworn into the service of the State of New York on the 27th day of April, 1861. On the 6th day of May the left wing was sworn into the United States service for three months by Capt. Turman Seymour. When the left wing went to take their rolls from Captain Seymour he had altered them from three months to two years. Captain Seymour told us if the Government needed us we would be held for two years from the time we were sworn into the State service.

Q. How did it happen that companies were considered as taken into the service of the United States for two years, or were they sworn a second time for any longer period?—A. They were not sworn a second time.

Q. Did you hear that the men before the 29th of April spoke of their right to be discharged the 29th of April on or before?—A. Yes, sir.

[The accused here introduced a muster-in roll of Company B, a copy of the caption and conclusion of which is hereto annexed showing the erasures and interlineations therein marked "D."]

Lieut. ALBON HOTTENROTH, called for the defense, and sworn.

Q. In what manner did the men of the Twentieth Regiment refuse to obey, and did they keep quiet?—A. They reported to me that their term of service expired the 29th, and gave me a paper with all their names signed to it who claimed that their term of service expired on the 29th. I reported this fact to the colonel. They were quiet when they refused to do duty.

Cross-examined by JUDGE-ADVOCATE:

The papers I mentioned was a list of the men in our company, A.

There was one man who refused to do duty who did not claim his time was out. That was Corpl. August Braum; his term of service was not out—he was enlisted for the term of the regiment.

The accused here announced that the evidence for the defense was closed.

The accused introduced the statements hereto annexed, marked, respectively, "A" and "B," and submitted them as the defense of those whose names are not signed thereto, as well as of those who signed the same, and they were so received by the court.

The evidence being thus in the possession of the court, with the statement of the defense, the court was cleared for deliberation, and having maturely considered the evidence adduced find the prisoners, * * * all of the Twentieth Regiment New York State Volunteers, and each of them, as follows:

Of the specification, "guilty."

Of the charge, "guilty."

And the court do therefore sentence the said * * * all of the Twentieth Regiment New York State Volunteers, and each of them, to forfeit all pay, bounties, and allowances which are or may become due them, respectively, to be dismissed from the service of the United States with a dishonorable discharge, then to be confined at hard labor in charge of the guard during the remainder of the war at such place as the proper authorities may direct.

THOS. H. NEILL,
Brigadier-General, U. S. Volunteers, President of General Court-Martial.

A. W. BRIGGS,
Captain, Forty-ninth New York Volunteers, Judge-Advocate.

The proceedings of the court in the several cases of the accused members of the Twentieth Regiment of New York Volunteers mentioned in the foregoing proceedings are approved, and the sentence in the cases is confirmed.

A. P. HOWE,
Brigadier-General, Commanding Division.

HEADQUARTERS SECOND DIVISION, SIXTH CORPS, May 5, 1863.

SIR: We, the undersigned members of Company A, Twentieth Regiment New York State Volunteers, submit to your kind consideration in a few words our case.

The day after the President of the United States call for 75,000 volunteers for the term of three months, we commenced to form a company of Germans in the city of Newark, N. J., as we were anxious to start for the seat of war as soon as possible and at the same time no regiment being ready to go in the State of New Jersey, we joined the present Twentieth Regiment New York State Volunteers, that time forming in the city of New York. Our whole company (77 men) left Newark, N. J., on the 26th day of April, and was sworn in the service of the State of New York on the 29th day April, 1861, to serve for two years; after this we elected our company officers.

On the 6th day of May, 1861, the governor of New York turned us over to the President of the United States for three months; after this term expired we were told by our officers that the governor of New York put us under disposition of the President of the United States for the rest of the term of our enlistment, during which we served faithfully and honestly.

Lieutenant-Colonel Schnepf, Major Meyer (our former captain), Captain Stoeckel, of Company C (our former second lieutenant), Captain Kluckhohn, of Company B (adjutant of the regiment at that time), First Lieutenant Sternberg, of Company I (formerly our orderly-sergeant), and Second Lieutenant Greiner, of Company A, can all testify on oath the truth of our statement.

Now, our term having expired, we ask you for the kindness to let us have our discharge.

We are, sir, your most obedient servants,

Melchior Bader, Martin Bang, Christian Bettenhausen, Joseph Boes, Frederick Buob, Joseph Fessler, Philip Freienthner, Julius Frick, George Gassert, August Hermann, Charles Knecht, Charles Kraemer, Chas. Kraemer, Bernhard Kellner, August Lagler, Hugo Leibe, Frederick Martin, Martin Miller, Frederick Merck, Charles Muenster, Charles Richter, Adolph Riedel, Julius Rust, Chas. Scheidemantel, G. Seiffart, L. Schmid, George Schulein, Christian Schultz, Emil Toppel, August Tolk, Hugo Trabold, Otto Troetschler, John Wagner, Jos. Wankmuller, Wm. Wolf.

B.

We, the undersigned members of the different companies of the Twentieth New York State Volunteers, submit to your kind consideration in a few words our case.

1. The undersigned companies were called into service by a proclamation of the President of the United States, dated April 15, 1861, which calls for 75,000 volunteers for the term of three months and when organized were mustered into service of the State of New York for the term of two years or sooner discharged on the 29th day of April, 1861, by Major Hubbel, and after this on the 6th day of May, by Captain Seymour, mustered in the United States service for three months.

2. The State of New York is not justified to transfer the undersigned companies in the United States service for a longer period than two years, dating from the 29th day of April, 1861, which time we have honestly and faithfully served.

GENHARDT HANSATTER, *Representative of Company C.*
 LOUIS KREICKER, *Representative of Company D.*
 GEORGE BAEHR, *Representative of Company E.*
 CHARLES R. STEEGER, *Representative of Company F.*
 CHARLES KNUTH, *Representative of Company G.*
 LEOPOLD SOLOMON, *Representative of Company H.*
 ALBERT KRAATZ, *Representative of Company I.*

Muster roll of Company B, ——— Regiment, ——— Brigade of New York Militia Volunteers, commanded by Col. Max Weber, called into the service of the United States by the President's proclamation dated April 15, 1861, from the 6th day of May, 1861 (date of this muster), for the term of three months unless sooner discharged. * * *

I certify on honor that I have carefully examined the men whose names are borne on this roll, their horses and equipments, and have accepted them for a term of three months from this 6th day of May, 1861.

WM. F. SMITH,
 Captain, Topography Engineers, Mustering Officer.