

6-30-1892

On the Case of D. Callinan

Follow this and additional works at: <https://digitalcommons.law.ou.edu/indianserialset>

 Part of the [Indian and Aboriginal Law Commons](#)

Recommended Citation

S. Rep. No. 861, 52nd Cong., 1st Sess. (1892)

This Senate Report is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in American Indian and Alaskan Native Documents in the Congressional Serial Set: 1817-1899 by an authorized administrator of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

IN THE SENATE OF THE UNITED STATES.

JUNE 30, 1892.—Ordered to be printed.

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

REPORT:

[To accompany S. 2815.]

The Committee on Military Affairs, to whom was referred the bill (S. 2815) for the relief of Capt. D. F. Callinan, U. S. Army, having considered the same, report:

This is a bill authorizing the President, with the advice and consent of the Senate, to appoint Capt. D. F. Callinan, U. S. Army, to the rank and grade of a major on the retired list of the Army.

The facts of the case are, quoting from the report of the Adjutant-General to the Secretary of War, of date April 14, 1892:

Capt. Callinan was retired from active service by direction of the President October 22, 1891, upon the finding of a retiring board that he is incapacitated for active service by reason of diseases, believed by the board to be permanent, "incident to the service." He objected to being placed upon the retired list, asserting that he was capable of performing the active duties of his office.

Under the law, however, an Army retiring board is the sole authority for determining the question as to whether or not an officer is properly subject to retirement for disability, and the final action upon the finding of such a board rests with the President. (Sections 1246 to 1254, Revised Statutes.)

At the time of his retirement Capt. Callinan stood No. 93 in the list of captains of infantry for promotion to major, in order of seniority.

Capt. Callinan resisted the action of the retiring board in placing him on the retired list, claiming his physical condition to be such as to warrant his being retained in the service. The board, however, took a different view of the matter and recommended his retirement.

The following is the recommendation of the board:

The board was then cleared and closed for deliberation, and having maturely considered the evidence, finds that Capt. Daniel F. Callinan, First Infantry, is incapacitated for active service by reason of chronic nephritis and tendency to neuralgia and bronchitis contracted about two years ago from causes incident to the service, and that in the opinion of the board the disability is permanent.

WM. H. JORDAN,
Lieutenant-Colonel Nineteenth Infantry, President.
D. D. MITCHELL,
First Lieutenant, Fifteenth Infantry, Recorder.

This recommendation was approved by the President October 22, 1891, and the following special order published:

SPECIAL ORDERS }
No. 246. }

HEADQUARTERS OF THE ARMY,
ADJUTANT-GENERAL'S OFFICE,
Washington, October 22, 1891.

[Extract.]

* * * * *

8. The following order has been received from the War Department:

WAR DEPARTMENT, Washington, October 22, 1891.

Capt. Daniel F. Callinan, First Infantry, having been found by an army retiring board incapacitated for active service on account of disability incident to the service, is, by direction of the President, retired from active service this date, under the provisions of section 1251, Revised Statutes. Capt. Callinan will proceed to his home.

REDFIELD PROCTOR,
Secretary of War.

The travel enjoined is necessary for the public service.

* * * * *

By command of Maj. Gen. Schofield.

J. C. KELTON,
Adjutant-General.

A voluminous amount of evidence is submitted in this case, including that taken before the retiring board, together with statements and recommendations of the different commanding officers; from which it appears that aside from the question of disability upon which the finding of the retiring board was had, Capt. Callinan in his own statement and presentation of his case very unwisely took occasion to make certain allegations and charges against the colonel of his regiment (Col. Wm. N. Shafter) charges in their nature such that if true would properly subject that officer to a trial by court-martial.

Brig. Gen. Thomas H. Ruger, commanding, in his statement says:

Had Capt. Callinan limited his reply to this cause for complaint and to a statement of facts showing supposed enmity on the part of his commanding officer, he could hardly be blamed, but he had no justification for the general accusations made against his regimental commander covering several years, and particularly the grave allegations that sickness and deaths in the command at the camp of instruction in 1888 were due, in his opinion, to the incompetency or inhumanity of Col. Shafter, and that the latter was guilty of misconduct by absenting himself from his command during its service in the Sioux troubles in Dakota the past winter. For making these serious charges and in view of the fact that he offers nothing in support of them, he deserves to be brought to trial before a court-martial and given the opportunity to make them good or take the consequences.

It appears evident, however, from the papers, especially by inference from his own writing, that he is weak in character and weak in mental apprehension, and that his mind is so filled with whatever causes for proper complaint he may have, and his grievances with reference to his regimental commander, that he is incapable of properly appreciating the gravity of his conduct with reference to discipline. In view of which, and his apparent physical incapacity for service, and the facts of his long service as a soldier, I am of opinion that his retirement on the action of the board, as already had, or by that of another if it should be to the same effect, will be the best disposition of his case.

With reference to action proper relative to Col. Shafter, it does not seem to me that any formal action is necessary.

This extract from Gen. Ruger's statement is a brief summary of the entire case, and gives substantially the reasons for retirement.

Capt. Callinan's record of service as a soldier was long and good, and for this he is to be commended, but there is nothing to show prejudice

or enmity on part of the retiring board. It must be assumed, therefore, that they were honest and conscientious in their finding.

Capt. Callinan himself at one time requested that he be sent before a retiring board, as the following letter will show:

ANGEL ISLAND, CALIFORNIA, *May 26, 1889.*

SIR: I have the honor most respectfully to request a change of station on account of sickness, neuralgic pains in my eyes, brought on, I have no doubt, by the constant severe winds from the ocean. In 1874 these pains first appeared near the right ear, traveling around the back of the head to the eye, increasing in frequency and violence until 1885, when they ceased while I was on duty in Ohio. Last winter these pains returned and have been particularly severe during the past two months. For the past week my head has ached steadily, so much so that I am not fit for active duty. With the exception of these pains I have excellent health. If this request can not be granted I respectfully request that I be ordered before a retiring board. The medical officers who treated me for these pains are Dr. H. R. Tilton in 1874 and 1875; Dr. A. C. Girard in 1876 and 1877; Dr. Harvey Brown in 1881 and 1882; Dr. J. B. Gardiner in 1883; Dr. Andrews (a contract surgeon) in 1884; and Dr. P. C. Connor, of Cincinnati, Ohio, in 1885. I believe these pains can be relieved by climatic means—a low altitude and warm winds.

Very respectfully, your obedient servant,

D. F. CALLINAN,
Captain, First Infantry.

The ASSISTANT ADJUTANT-GENERAL,
Department of California.
(Through commanding officer, Angel Island.)

To the question of physical disability, however, is to be added the further cause for his retirement, good of the service, etc., as suggested in the statement of Gen. Ruger.

Briefly stated, your committee are of the opinion the retirement of Capt. Callinan was for the reasons jointly stated—first, disability, and second, good of the service, growing out of the charges made by Capt. Callinan against Col. Shafter, which charges were not substantiated, and were dropped without investigation because of the prior good record of Capt. Callinan through a long service, the retirement being in the nature of a compromise, as it were, and the best thing, the circumstances all considered, that could be done.

No. 93 in line of promotion, it would hardly seem fair that he should be given precedence over so many should there be no other obstacle in the way, and this would be the result of his retirement now as a major.

Duly appreciative of the soldierly worth of Capt. Callinan through his long service, still it is impossible to see why the record should not be permitted to stand as already made up.

Your committee report adversely to the passage of the bill and recommend its indefinite postponement.