

Proceedings of a General Court Martial, commenced on Sunday the 27<sup>th</sup> Feby 1814 pursuant to the General Orders of the 24<sup>th</sup> & 26<sup>th</sup> Ins<sup>t</sup>. at the quarters of Col<sup>o</sup>. Richard E. Parker at the Camp, Peach Orchard, present,

Col<sup>o</sup>. Richard E. Parker, President

Captain James Meek, Ensign George Boxley & Capt. Myers, Judge Advocate.

Absent, Captain Bibb, Lieut. Lindsay & Ensign Capron of the 6<sup>th</sup> Regt.

The absence of a majority of the members ordered to constitute the Court, rendering it necessary to adjoin, after the present [sic] & the Judge Advocate were legally sworn; Ordered, that the Court be adjourned to the hour of 10 o'clock A.M. tomorrow.

Attest

J. Myers Captain

Judge Advocate

Richard E. Parker

Pres<sup>t</sup> Genl. C<sup>o</sup> Martial

Pursuant to order the Court met again at same quarters this day Monday 28<sup>th</sup> Feby. Present, Col<sup>o</sup>. Richard E. Parker, Captain Meeks, Lieut. Lindsay, Ensign Capron & Ensign Boxley. The members not present yesterday were legally sworn & took their seats.

James Patten a private in Captain Keen's company, now Lieut. Dickson, 5<sup>th</sup> Regiment was brought before the court, charged with "Sleeping on Post". Specification – In that the said James Patten, when placed as a centinel on the ~~night of the~~ 22<sup>d</sup> Ins<sup>t</sup> was caught asleep.

The prisoner being asked if he objected to any member of the Court replied in the negative. Whereupon he was on his trial & the charge & specification being read the prisoner pleaded not guilty.

William J. Payne a Sergeant was called & being duly sworn as a witness in the case testified, That as he was proceeding with the 3<sup>rd</sup> relief as sergeant of the guards to relieve Patten, he found him sitting, with his head leaning on his hands, his gun between his knees on which his arms rested, apparently asleep. He drew the muskett from him without the prisoner's perceiving it, untill in his possession. The prisoner then raised up his head & stretch'd himself as if from a sound sleep. The Witness being asked if the Prisoner had been on duty the previous night replied ~~in the negative~~ – "It was his first hour." He does not think he was on any duty the previous night this occurrence being at 2 o'clock P.M. of the day.

Question by the prisoner – "Did you not jerk my gun from me?" Answer - "I did not. You did not move untill I had the gun & put it down by my side."

Lieut. Moreman being duly sworn as a witness in this case, testifies that the prisoner is a private in the Company to which he belongs. On being asked if he knew anything touching the Charge against him replied in the negative.

Question by the prisoner – "Have I not been an orderly, obedient soldier?" Answer – "He has allways been a very vigilant, attentive & orderly man & if I had been called on to select from the company particular men, I should have selected Patten for one of the best & he has never from any cause missed more than one day's duty to my knowledge."

The evidence being concluded the Court unanimously found the prisoner Guilty of the charge & specification. Sentence – In consideration of the usual good conduct of the prisoner, his penitence before the Court, his not having been before charged with

improper conduct, ~~his having a remote post to act on where few persons passed, being~~ his confinement of 6 days & other causes going to mitigate his crime in the mind of the Court, they sentence him to a punishment as moderate as so serious a crime can admit of – viz that he be placed under the police officer of the camp for the balance of his tour of service & to wear the ball & chain for an hour each day for two days – but recommended him to mercy.

Thomas Manson, a prisoner was brought before the Court belonging to Lieut. Dickson's company, 5<sup>th</sup> Regiment & having no objection to any member of the Court was put on his trial on the following charge "Sleeping on his Post". Specification in that the said Manson being posted on the 25<sup>th</sup> Feby at the magazine at Fort Tar as a centinel, did go to sleep & suffered the Officer of the Guard to approach him & take his gun. Prisoner pleaded not guilty to the charge.

Adjutant Jackson of the 4<sup>th</sup> Reg<sup>t</sup> being sworn in as a witness testified that as he passed near to where the prisoner was on post, he was called by the Serg<sup>t</sup> of the Guard to observe the prisoner, whose gun he had taken from him & he was still sitting on a stool asleep, & was waked by the deponent. Not knowing anything of his gun which he said was at home, he was seated a few paces only from the ~~magazine~~ guard house & immediately against the magazine door, he alledged that the contiguity of the guard was a cause of his indulgence, ~~and that he found the centinel whom he relieved sitting at the same place~~ but did not deny that he was asleep.

Sergeant Lindsay being sworn as a witness testifies that he was Sergeant of the Guard & posted the prisoner whom he saw sitting asleep & took his gun from him which did not wake him. He remained asleep for 10 or so minutes when waked by Adjutant Jackson. The deponent had perceived him sitting before that time & once as if asleep, but not knowing that sitting on post was prohibited, having received no such instruction himself, did not prohibit it in the prisoner.

The prisoner produced testimonials to the Court of his general good conduct & was recognized by members of the Court in that character & he stated to the Court that intemperance on the day before duty caused his situation. That he had served in different regiments since the war [began], without having been before under guard and discovered chagrin & penitence.

The Court found the prisoner guilty of the charge & specification, and sentence him to the same punishment as in the case of James Patten but recommend him to mercy, on consideration of the circumstances and of the character & demeanor of the prisoner. The Court Adjourned to meet as before tomorrow at 10 o'clock.

Jn<sup>o</sup> Myers, Judge Advocate

Rich<sup>d</sup> E. Parker, Pres<sup>t</sup>

Pursuant to adjournment the Court met this day. Present – Col<sup>o</sup>. Parker, Captain Meeks, Capt. Cobb, Lieut. Lindsay, Ensign Capron & Ensign Boxley as supernumerary.

James English a prisoner was brought before the Court charged with "Sleeping on Post". The only witness in his case having enlisted in the regular service of the U. S. & there being a probable difficulty in obtaining him, the Court determined to order his release, after reading to him the Article of War relating to the case & some remarks of the

President to the prisoner on the nature of his offense. The prisoner having been confined already 27 days was a consideration. With the Court in making this decision which is [it] will not however release the prisoner until approved by the Commanding General.

James Johnston a soldier of Capt. Shields' company of artillery was brought before the Court & having been asked if he objected to any member of the Court replied in the negative. Whereupon he was put on his trial on the following charge & specification – Charge – Mutiny & disorderly conduct

Specification – 1<sup>st</sup> – In that the said Johnston did on the 26<sup>th</sup> Feb 1814 while in confinement at Fort Barbour refuse to obey orders.

Spec<sup>n</sup>. 2<sup>nd</sup> – In that the said Johnston did on the same day at the same place abuse Capt. Tibbs when in the performance of his duty as officer of the guard & in the presence of said guard damn'd him & said he was no gentleman & a rogue – that he should be the last man that Captain Tibbs should confine – that he would make him smell powder & ball, threatening his life & afterwards his own.

Spec<sup>n</sup>. 3<sup>rd</sup> – In that said Johnston did on the same day & place endeavor to excite mutiny which encouraged the prisoners to murmur & after Captain Tibbs placing centinels at the front door of the guard house attempting to break the other door open & attack one of the centinels & endeavored to deprive the said centinel of his arms.

To which the prisoner pleaded “Not Guilty”.

Captain Tibbs of Artillery being sworn as a witness stated that being officer of the guard in full uniform on the day stated he was also on a regimental court before which the prisoner was brought for trial. After which he was at the guard house where the sergeant of the guard & some of the men were very drunk & disorderly & required his rebuking them, on which the prisoner interfered & abused & Treated him in a most mutinous manner encouraging the others of the guard & the prisoners to resistance, threatening to strike the deponent & saying that he was no gentleman & a rogue – that had been a long time in the service & knew his duty – that he the prisoner should be the last man the deponent should confine – that he would make him smell powder & ball, threatening his deponents life & then his own – that he did attempt to wrest from the centinel his gun & would have succeeded but for the interference of the witness – that he did encourage the other men to mutiny which produced a very general murmur & caused him to apprehend a general resistance & to call in the aid of a guard – that he did after order the prisoner to be silent & obedient to no effect, who attempted to break open the other door of the guard house and a centinel being placed at one door – refusing also to permit himself to be confined.

Question – “Was the prisoner drunk?” Answer, “I charged him with being so which he positively denied. He seemed to be excited by liquor, but not in a degree to render him insensible in my opinion to the impropriety of his conduct.”

Adjutant Vincent being sworn in as a witness states that he was sent for by Capt. Tibbs on the day stated, in consequence of the riotous conduct of his men – that he succeeded in quieting all but the prisoner who was very mutinous & disorderly saying that Capt. Tibbs was no gentleman and using the term rogue which he understood as applied also to him – that he the prisoner should be the last man that Capt Tibbs should confine threatening that he would make him smell gunpowder as soon as he went out of confinement. On the deponents arrival at the guard house he found the centinels at the door & the guard

standing before the door at charged bayonett – that the prisoner said in our presence that he had bitten his hand when Capt Tibbs ordered him to be gagged – that at times he appeared to be drunk & at others not to be. He charged him with intoxication which the prisoner denied.

Question- “Did you believe his conduct tended to excite others to mutiny?”

Answer – “I did & advised Capt Tibbs to cut him down.”

Capt Emmerson being sworn in as a witness states that he went into the guard house & heard the prisoner very abusive to Capt Tibbs. That he ordered him to be put in irons finding his conduct very mutinous. He continued noisy on which the witness ordered him to be gagged, which after some time caused him to be silent. Witness believes him to have been intoxicated & that his conduct caused others to be mutinous & that probably if sober such would not have been his conduct.

The prisoner being asked at the conclusion of each testimony if he had any question to ask replied always that he was once drunk before and caused him to be in same, disused & did not recollect anything of it, not of any person.

The opinion of the Court being taken on the charge & specifications found him guilty of all & pronounced the following:

Sentence – That he shall be placed on a narrow block at Fort Barbour four feet high, to stand on one foot alternately twenty minutes with his arms extended in the presence of the artillery corps having previously been shaved of one half his head & an eyebrow.

That he shall then be taken down & receive twenty cobbs on his bare posteriors and shall then be put at hard labour with a ball & chain for twenty days & his rations of whiskey spirits to be stopped during the remainder of his service.

Corporal Pollard was then arraigned & after being asked if he objected to any member of the Court & answering in the negative, was tried on the following charge & specification to which he pleaded “not guilty”.

Charge – Disorderly & unsoldierlike conduct & disobedience of orders.

Specification – In that the said Pollard on the 26<sup>th</sup> Feby 1814 at Fort Barbour while on his post as sergeant of the guard, did disobey the orders of Capt. Tibbs as officer of the guard.

Spec<sup>n</sup> 2<sup>nd</sup> – In that the said Pollard did at the same time & place, ~~did~~ contrary to the orders of the Officer of the guard expressly given him, take out the prisoners that they might drink, so that that & a part of the guard became drunk so much so that he was incapable of doing any kind of duty.

Spec<sup>n</sup> 3<sup>rd</sup> – In that the said Pollard at the same time & place did resist by words & gestures the orders of Capt Tibbs for confining other prisoners as well as himself.

Capt Tibbs was sworn as a witness & stated on the day & place that the prisoner was second in command as sergeant of the guard & that being left in command when the witness was called to attend on a court martial, did order the prisoner not to permit the prisoners or guard under his charge to go out or any drink to be brought in. In disobedience of which he suffered them to go to drink & drank with them untill they & the prisoner became very intoxicated & disorderly & did resist by words & gestures, but was so drunk as to be harmless.

John Swain stated that he acted as centinel on the day stated & the time. That he saw the prisoner frequently go out with the prisoners & privates of the guard during the absence

of Capt Tibbs to a drinking house where he saw him drink with the men & in violation of the orders given him drink by Capt Tibbs not to allow any drink to be carried to the guard house or guard or prisoners to have any. That the prisoner finally got very drunk. That he thought the conduct very improper & that he often carried them without a guard. He refused often to let them pass when they would return & be accompanied by the prisoner who passed them.

The Court decided upon mature deliberation ~~that~~ the charge & specifications ~~being fully proven~~ find the prisoner guilty ~~of the cha~~ and pronounce the following Sentence – That he shall be reduced to the ranks for the remainder of his time of service. That in the presence of the Brigade he shall be placed on a narrow block to stand on one foot alternately for twenty minutes with his arms extended having previously been shaven of one of his whiskers. After which he shall be taken down & receive 20 cobbs on his bare posteriors & then be put to hard labour with a ball & chain for twenty days & his ration of spirit to be stopped for the remainder of his service.  
Adjourned to meet tomorrow at 10 o'clock.

Jn<sup>o</sup> Myers, Judge Advocate

Rich<sup>d</sup> E. Parker, Lt Col, Pres<sup>t</sup>

Pursuant to adjournment the Court met this day March 2<sup>nd</sup> 1814.

Present – Col<sup>o</sup> Richard E. Parker, President, Captains Meek & Bibb, Lieut. Lindsay & Ensign Capron.

John Warring, M. Powell, H. Fanon & William Underwood, privates of a fatigue party, under direction of the Engineer were brought before the Court ~~charged with~~ and being asked if they had any objection to be tried by the members of the Court & replying in the negative, were put on trial on the following charge & specifications to which they severally pleaded “Not Guilty”.

Charge – Riotous & disorderly conduct

Spec<sup>n</sup> 1<sup>st</sup> – In that the said Warring, Powell, Fanon & Underwood did on the night of the 25<sup>th</sup> Feby 1814 threaten to break open a door of a home near Fort Barbour occupied by Cornelius Hymans & there forcibly entered & did abuse & strike some person or persons therein.

Spec<sup>n</sup> 2<sup>nd</sup> – In that by their threats they did compel said Hymans to open his door & there did strike a black man employed by said Hymans & then did with clubs & other means threaten to beat the said Hymans & abused C. F. Otten who commanded them to be peaceable but continued riotous until taken by the sergeant of the guard.

Spec<sup>n</sup> 3<sup>rd</sup> – In that they did conduct themselves by improper gestures & talking in a disrespectful & disorderly manner to Lieut. Upshaw, as officer of the guard when put in his charge.

Lieut. Upshaw being sworn testified that he was officer of the guard on the day stated, when the sergeant of the guard had the prisoners confined for riotous & disorderly conduct when they were as he thought intoxicated & that they conducted before him &, when he ordered them to be quiet, also to himself, by gesture & manner disrespectfully & riotously ~~manner~~. That the next morning they were peaceable & well behaved.

Sergeant Wood being sworn testifies that he heard a tumult & cry of murder in the direction of the house where he found on going to it with a force, three of the prisoners who he was told had been acting in a disorderly & riotous manner & met Underwood a

few steps from it coming away & very drunk - the others being not so much so as to be unconscious of their conduct. That he took them to the guard house together with Underwood who he understood to be one of them. That the three most sober behaved improperly by gesture to Lieut. Upshaw at the guard house. They all were orderly the next morning. That he saw nothing but they being noisy & drunk.

C. F. Otten being sworn, states that he was called by Mr. Hymans who lives next door to him to come & assist in putting out some men whom he found to be prisoners, but heard nothing disorderly until they were put out of doors. He found them disputing with Hymans about paying for some liquor that they appeared to have been buying. They were very drunk. Saw no weapon.

Sergeant Cook witness for the prisoners testifies that the prisoners all ~~the prisoners~~ went to Hymans before tattoo with him. He boarded here & went to sup. They were not then much intoxicated. He left them there drinking & saw no disorder. Speaks particularly as to Warring's conduct being generally correct. Never knew him drunk during his being with him 2 mo<sup>s</sup> in service.

Anthony Dean witness for prisoners states that he was at Hymans' house when they had been drinking. Were ordered out by him & went out but insisted on coming back for a bal<sup>ce</sup> of liquor & did so & drank it, but were not very drunk. They were merry like himself. He saw no disorder.

Whereupon the Court decided that the first part of the charge & the 1<sup>st</sup> & 2<sup>nd</sup> Spec<sup>n</sup> are not proven, but that the prisoners are guilty of disorderly conduct & of the 3<sup>rd</sup> Spec<sup>n</sup> and upon mature deliberation pronounce the following:

Sentence – That their rations of spirits be stopped during the remainder of their service & that they ask pardon of Lieut. Upshaw.

Thomas McGee a private in Capt Shelton's company, 5<sup>th</sup> Reg<sup>t</sup> was put on his trial & having been asked if he had objection to any member of the Court replied in the negative & pleaded "not guilty" to the following charge & specification:

Charge – Leaving his post.

Spec<sup>n</sup> – In that he did on the 25<sup>th</sup> Feb leave his post and return to the guard house before he had served his tour as sentinel & been relieved between 2 & 4 o'clock P.M

Lieut. Brewer testified that the prisoner did come to the guard house he being officer of the guard. Complained of great pain, which he claimed as his reason for quitting his post. Witness thought he was in great pain & not drunk.

Edw. Edwards, witness for the prisoner, states he was sentinel near him in post. When asked to meet him & offered him a drink which he refused. Prisoner drank twice as is sometimes his habit to do freely. Heard him complain of pain & saw him limp away from post. Believes he was induced to do it from drink more than other cause.

John Owen for prisoner also states that he was present at guard house soon after prisoner was confined. Appeared in great pain, shedding tears & not so drunk as to cause his conduct. Believes he was in great pain.

Sam<sup>l</sup> Henninger states that he was sentinel near prisoner who complained of pain in his knee three or perhaps more [times] & said he would go to the guard house in consequence. Said he had been placed by an officer & therefore might do so, which seemed as an excuse to justify his doing so, as he was seen by witness to walk alone onto his post, where there was no sentinel to be relieved. Believes he was in pain & left it for

that cause & was not drunk, tho' had seen him drinking. Advised him once not to go when he replied as before.

Whereupon the Court found him guilty of the charge & specification & upon mature deliberation pronounce the following:

Sentence – That the prisoner being a very old man & a revolutionary soldier, & that appearing that there was some irregularity in posting him ~~only sentence him~~ & that he probably did leave his post from extreme pain, that ~~he be deprived of his ration of spirit~~ he be discharged.

Jn<sup>o</sup> Myers Judge Advocate

Rich<sup>d</sup> E. Parker, L.C. 5<sup>th</sup> Reg<sup>t</sup>, Pres<sup>t</sup>

Pursuant to adjournment the Court met this day March 3<sup>rd</sup> 1814.

Present – Col<sup>o</sup> Rich E. Parker, Capt. Meek & Bibb, Lieut. Lindsay & Ensign Capron & Boxley.

Geo. Leonard, a private in Capt Wiley Jones' company was brought before the Court & having no objection to the members of the Court was tried on the following charge & specification to which pleaded "Not Guilty".

Charge – Sleeping on post.

Spec<sup>n</sup> – In that the said Leonard did while on his post as a centinel on the morning of 1<sup>st</sup> March there go to sleep.

John McGee states that was sergeant of the guard at that time & when going to relieve the prisoner on the last tour in the mornng found him sitting down with his eyes shut, his gun at a little distance from him. That he had behaved well during the night. That, on the witness opening & shutting the pan of his gun, he rose up & reached for his gun. That he had approached very silently. That he gave no material indication of having slept.

Corporal Saunders witness for the prisoner states that prisoner told him when ordered for guard that he was sick & wished to be exempted. That he knows of no misconduct.

Corp<sup>l</sup> McConnell states that prisoner complained before posted for last hour as centinel of being unwell. Knew him to have generally been an attentive soldier. He also complained before being put on duty but said that he would not ask to be excused as many of the company were sick.

Lieut. Dryden states that he knows the prisoner to have been a faithfull attentive soldier, as much as any other in the company & performed his duty always in an exemplary manner.

Whereupon the Court upon mature deliberation ~~find~~ acquit the prisoner under the charge & specification. It not being proven to their satisfaction that the prisoner was asleep, but they are of opinion that he was guilty of breach of duty in sitting on his post, his gun at little distance from him & they deem it proper to the view of the Commd<sup>s</sup> Officer the practice that ~~has been shown~~ too frequently exists & is permitted by guard officers for want of proper instruction to the soldier of sitting down when on post which practice alone prevents them from affixing some punishment on the prisoner.

Rueben Finley a private in Capt Cump's company was brought in & having no objection to the Court was tried on the following charge & specification to which he pleaded "Not Guilty.

Charge – Sleeping on post.

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Spec<sup>n</sup> – In that he was found asleep on post when acting as a centinel on the night of 19 Feb at 2 o'clock at Fort Tar.

Corp<sup>l</sup> Lewis states that he was going to relieve the prisoner on post & found him asleep & took his gun from him. He complained of being unwell with cholic.

Sentence – That the prisoner shall ride a cannon for 2 hours, with his hands tied behind him & feet tied together & labour for balance of his tour of service.

Bryant Brittle charged with disobedience of orders & insulting language to his officer.

Spec<sup>n</sup> – In that the said Brittle being detailed on guard on morning of 3 March 1814 did refuse to serve and made use of very insulting language to Sergeant Wilson the orderly sergeant because he detailed him.

Sergeant Wilson states that on that day he was detailed & applied to & said he would not go on guard. Told witness that he was not well & that on witness telling him a second time he must go said he would not & accused the witness with partiality in his detail.

That the reason of his not admitting this excuse & applying a second time to him was that he was told by others that the prisoner had said he would do no more duty. Prisoner told him he knew no more of martial law than a dog.

Serg<sup>t</sup> Ballard testified to the insulting language used by the prisoner to the sergeant.

Heard him complain of being unwell & once saw the surgeon talking to him. Said to Sergeant Wilson when he ordered the prisoner to go on guard that he thought prisoner unwell & testifies that he has ate little for some days.

Adjourned to tomorrow 10 o'clock.

Jn<sup>o</sup> Myers J. Advocate

Rich<sup>d</sup> E. Parker, Pres<sup>t</sup>

The Court met this day pursuant to adjournment. Same members present. Case of Bryant Brittle continued from yesterday.

W<sup>m</sup> Fallen proved same as Sergeant Wilson that he heard prisoner say he would do more duty & would desert if put in confinement.

Whereupon the Court upon mature deliberation find the prisoner guilty & sentence him to be ~~marched~~ drummed from right to left of 4<sup>th</sup> & 5<sup>th</sup> Regt with a labell on his breast containing the words “for insolence to his sergeant”. That he shall then ride a cannon nearest the sally port at the peach orchard for one hour with his hands tied behind him & then be sent to Craney Island to labour for ten days.

Adjourned sine die.

Jn<sup>o</sup> Myers, Judge Advocate

Rich<sup>d</sup> E. Parker, Pres<sup>t</sup>

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