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# Sympathy for the Loss of a Comrade

BLACK CITIZENSHIP AND THE 1873 FORT STOCKTON "MUTINY"

*Nicholas Eskow*

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I could go on much longer ("thank you to my neighbors...") and mean it, but I'll cut it short and just say that I know I haven't produced anything in a vacuum, and I'm genuinely grateful for everyone in my life. Just know that behind every thanks (stated here or elsewhere) is, honestly, an overwhelming amount of gratitude and appreciation.

## Introduction

It is a challenge to piece together exactly what happened at Fort Stockton, Texas in 1873. We do know this much: in early July of that year, a soldier named John Taylor reported to the hospital complaining of illness. The fort's doctor sent him to the guard house. Three days later John Taylor was dead, and the soldiers at the fort, outraged, drafted a letter calling for the formal censure of Cleary for intentional and malicious neglect. Of the 180 soldiers stationed at the fort, 129 signed their names to the letter (although most were unable to write their own names, and instead signed with an X). The officers at the fort responded by placing 21 soldiers, mostly noncommissioned officers, on trial for attempted mutiny, although the charge would be downgraded to simply a failure to follow proper procedure. One man was excused, and the other 20 were dishonorably discharged and sent to prison at Huntsville, Texas.

That story is interesting enough on its own, and has been touched on in several previous works, but it has not been given the attention it deserves. Previous authors have not placed this incident in a social or historical context, and they tend to rely on the primarily narrative presented the white officers, without necessarily acknowledging the subjective viewpoints they are repeating. Very often this is out of necessity, owing to the relative lack of written sources by Black soldiers.<sup>1</sup> However, the narrative as told by the white officers erases the agency of the Black soldiers, and simplifies their goals and objectives to something that is simply oppositional. My goal, therefore, is to reconstruct this narrative and introduce new sources that help to highlight not only the sequence of events, but the context and significance of each; this is not only a study of history, but also a reflection on the process by which this history is constructed and reconstructed. A close inspection of this event reveals that this was not simply an act of defiance or resistance, but a symbolic assertion of fundamental rights of citizenship and personhood that included, but extended far beyond, the impulse for justice.

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<sup>1</sup> Dobak and Phillips, *The Black Regulars, 1866-1898*. xi.

I have conducted extensive archival research to uncover documents that have been omitted from earlier accounts, which provide necessary context and detail. Over several trips, I have spent roughly one month conducting research full-time at the National Archives in Washington, D.C., photographing thousands of pages of documents from a wide range of collections. Special attention was given to pension records and correspondence, which offer some of the few opportunities to see statements from current and former Black soldiers in their own words. I also searched, online or in person, through many government and local records, including census documents, property deeds, and court cases. All of this was supplemented by reference to secondary literature that provided a historical and social context for the events of 1873 and the people involved.

In writing about my findings, I have made a conscious decision to refer to myself in the first-person throughout. My identity as a white man colors everything I see in the world, and even an honest attempt at seeing past that is still, ultimately, the product of my upbringing and background. I would not feel comfortable presuming to speak on behalf of anyone in this story, least of all former slaves whose whole lived experiences would have been completely different from my own. Martin Delany pointed out, more than a century ago, that there is a long tradition of white people who think they understand Blackness;<sup>2</sup> I won't put myself in the uncomfortable position of pretending I am more knowledgeable than I ever could be. What I can do is call attention to the Black voices in this story that have previously been omitted.

Highlighting these voices is difficult, however, because there are very few documents that preserve an unmediated Black voice, only the original petition letter and a statement submitted by the accused soldiers at the end of the trial. Many Black soldiers testified during the proceedings, but we cannot forget that the context in which these testimonies were given. The witnesses were chosen to achieve a favorable outcome for the white commissioned officers. The questions asked of them shaped the answers they would (or could) give, and the circumstances of being in a mutiny trial in front of all

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<sup>2</sup> Humphreys, *Intensely Human*. 20.

their commanding officers must have been a factor in how comfortable they were speaking openly.

Additionally, we should note that the transcript of the trial is not strictly verbatim, but is a summary of proceedings written by the clerk; who was, himself, an official of the Department of Texas.

I have not omitted the perspectives of the white officers from my construction of the narrative, but I have attempted to call attention to whose viewpoint is being represented, to clarify that I am essentially only repeating what others have said. I can make a judgment about which perspectives I give credence to, but that is ultimately subjective, and I prefer to give readers the opportunity to make these decisions for themselves.

Beyond the basic narrative of events surrounding John Taylor's death, I have attempted to more fully reconstruct the lives of the nearly two hundred people who were at the fort during that period. In naming each of them and providing basic information about their lives, I hope to change them from a faceless crowd to a group of individuals with their own histories, backgrounds, motivations, wants, and needs. Space restrictions and an often-thin documentary record prevent me from providing full biographies of everyone, but certain people are highlighted either for their role in this episode, or for what their lives may imply for the rest.

To do this, a master list was drawn up from the original muster rolls housed at the National Archives. Muster rolls were recorded every two months, and noted basic information about each soldier: rank, date and place of enlistment, information about payment, and any noteworthy points (for example, if a soldier had fallen ill or was out on a scouting mission). The date and place of enlistment listed on the muster rolls made it possible to find each soldier on the original enlistment register, where yet more data was recorded: place of birth, age, occupation before enlisting, physical characteristics, and notes about their military careers (such as dates of discharge, trial, desertion, etc.).

Thanks to this information, at a minimum we have three spatial data points about every soldier: their service at Fort Stockton, their place of enlistment, and their place of birth. As different companies moved from place to place, they would often recruit new soldiers, and it is common to see that many

soldiers in a company had all enlisted in the same place. The distribution of soldiers within companies is therefore not random, but roughly geographically bounded. For example, the soldiers of Company D, 9th Cavalry were mostly recruits from the cities of Lexington and Paducah, Kentucky.

Wherever possible, I located soldiers in census records, city directories, and other sources. For the most part, I was not able to find any soldiers in any documents prior to the Civil War. In some cases it was possible to find Civil War service records, but for the majority, the documentary history that I was able to locate begins with their enlistment in the postwar Army. As we will see, the few exceptions sometimes proved very valuable.

Two key people in this narrative are John Taylor and Peter J.A. Cleary. Why did Taylor die? What caused his death? I will draw on several different accounts of the story to lay out the full effect of Taylor's death on the fort and the soldiers who lived there. I will also spend a lot of time examining how the petition letter came to exist, and how the people organized and executed this action. We will then look at the effects of this letter: among the soldiers, among the officers, among the greater military, and beyond.

This culminates in the trial. I will spend more time on the trial itself than what is seen in other literature on this event, because the trial is where most of our information comes from. It is important to highlight and acknowledge where our information about this narrative comes from, and to acknowledge how different testimonies interacted with each other and were shaped by the influence of the court martial, the defense counsel, and other personal agendas.

The last section will look at the aftermath of the trial. For most soldiers, this information has been hard to come by, and relies primarily on pension records and some scattered sources. The major exception here is the life of Ellis M. Russell, who played a crucial role in the petitioning process as the scribe who wrote the letter that was delivered to the Adjutant. I was lucky to find a good deal of information on Russell's life, and I spend the majority of this section looking at who he was, and how his life played out. He was heavily involved in politics, and placed a great emphasis on reading and

learning. His life offers a fascinating look at how a young, Black intellectual made his mark in a setting like the Reconstruction-era Army, and how he might have learned and grown from his experience.

I will end with a discussion that will reexamine everything we have just read through a more theoretical, rather than narrative, lens. As an anthropological study, this work has the opportunity to tell us something about the impact of Black military life on Black American politics and identity -- and how politics and identity informed Black military life in the late 19th century.

### **Life at Fort Stockton**

For many young, Black men in Reconstruction-era America, the Army was an opportunity to earn equal pay and some degree of dignity. The end of the Civil War had marked the end of the fighting for most of the Army, but in points west, the Indian Wars had seen open conflict for several decades, and would see conflict for several decades more. In the wake of the war, the Indian Wars intensified and expanded as more westward territories were claimed by the United States. The Army had rapidly and dramatically downsized to about a tenth of its wartime numbers, but still needed significant forces not only to fight the Indian Wars, but to maintain peace in the still-contentious South.<sup>3</sup>

Black regiments had only begun fighting during the Civil War, after intense activism by Black intellectuals who insisted on Black Americans participating in the fight for their own freedom. To be denied the right to fight and die for one's country had been infantilizing, treating Blacks more as subjects than as citizens. Prominent Black intellectuals like Frederick Douglass advocated Army service was a way for Black Americans to assert their citizenship, their dignity, and their fundamental self-worth.<sup>4</sup> After the war, Black military service remained a part of the Regular Army, although units continued to be segregated. Initially there were six regiments of Black soldiers, the 38th, 39th, 40th, and 41st Infantries, and the 9th and 10th Cavalries; by the end of the 1860s, the Army had downsized

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<sup>3</sup> Dobak and Phillips, *The Black Regulars, 1866-1898*. 3

<sup>4</sup> Parker, "War and African American Citizenship." 432. Williams, *Self-Taught*. 48.



and consolidated these into four regiments, the 24th and 25th U.S. Infantry, and the 9th and 10th U.S. Cavalry.<sup>5</sup>

The structure of the military was one of enforced hierarchy. The higher ranks were held by commissioned officers, men who had attended military academy. Below them were the enlisted ranks. An enlisted soldier could advance through the ranks and become a noncommissioned officer, but would always remain subordinate to the commissioned officers. In 1873, there had never been a Black commissioned officer, so the military hierarchy also strictly reinforced a racial hierarchy in Black units, with white officers holding authority over Black subordinates.<sup>6</sup>

Still, the military remained an attractive place for Black men if for no other reason than because it was the one place where they could be guaranteed equal pay with whites. Black soldiers had fought hard to secure equal pay, and as a result, military service could offer a much better life than sharecropping.<sup>7</sup> Many Black men who had fought in the civil war reenlisted in the Regular Army, and it is not uncommon to see reenlistments on the Enlistment Rolls. The political agenda here was not to fight Indians, but to join an organization with the potential to empower Black men. To be denied the ability to fight and die for one's own sake in the 19th century was emasculating. Frederick Douglass and other Black intellectuals were explicit in stating that Civil War service was a matter of equality, and this motivation remained after the war.<sup>8</sup>

By and large, the Black Regulars were sent to points west. Ostensibly this was because military authorities felt that the presence of Black troops in the Reconstruction south would threaten fragile peace. The effect, however, was to segregate the Black Regulars from the broader population, thereby weakening their political influence. These were the least desirable posts in the Army, situated in remote backwaters far from any major cities, often provisioned with inferior supplies.<sup>9</sup>

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<sup>5</sup> Fowler, *The Black Infantry in the West, 1869-1891*. 12

<sup>6</sup> Schubert, *Voices of the Buffalo Soldier*. 87

<sup>7</sup> Berlin, Reidy, and Rowland, *The Black Military Experience*. 362-368

<sup>8</sup> Dobak and Phillips, *The Black Regulars, 1866-1898*. 3

<sup>9</sup>

Fort Stockton was originally established in 1859 to protect the mail route between El Paso and San Antonio, deep in the heart of West Texas, a hundred miles away from the nearest fort and far from the closest railroad. There were typically three companies stationed at the fort at any given time. By the start of 1873, there were two companies of infantry, Companies F and K of the 25th U.S. Infantry, and one company of cavalry, Company D, 9th U.S. Cavalry. It was an isolated outpost, far from any large towns or cities. It took a full week for mail to arrive from headquarters in San Antonio. A 20 acre garden was vital for the survival of the fort, because it was too far away from any other sources; this was supplemented with beef bought from local ranchers. Forts, especially remote forts like this one, required a large amount of daily labor to maintain, and much of every soldier's day consisted of work in the garden or at another station of the fort. There was a bakery, a Post Trader, and a blacksmith. The terrain was wide open, with only a single cotton tree in the garden. There were three barracks built out of adobe, each with its own kitchen and dining hall. Each bed had a straw mattress and a wool blanket. Further away there were quarters for married soldiers and laundresses, although few soldiers at the time were married.<sup>10</sup> There were seven adobe officers' quarters. The post hospital had a single ward, an office, and a storeroom. Sanitation consisted of drainage into the creek; soldiers bathed upstream.<sup>11</sup>

Fort Stockton was not a desirable post, nor was any part of West Texas. Lydia Spencer Lane, the wife of an officer transferred to Fort McIntosh, wrote in her memoirs that there was "no escape" from the horrible news that they would be moving to Texas.<sup>12</sup> For the black soldiers serving there, Fort Stockton was especially isolated: not only was there ongoing conflict with the local Apache and Comanche, Black soldiers also faced intense hostility from local white residents; there's a case where a white man shot a Black soldier, and one local was reported as saying the murderer would be welcome

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<sup>10</sup> 1860 U.S. Census, Presidio County

<sup>11</sup> Adams, *Class and Race in the Frontier Army*. 58. United States et al., *Report on Hygiene of the United States Army*. 242

<sup>12</sup> Barnett, *Ungentlemanly Acts*. 50

in any house in West Texas.<sup>13</sup> In a very real sense, this fort was an island for the Black soldiers stationed there.`

Most of the enlisted men at Fort Stockton in 1873 came from similar backgrounds. The majority were Southern-born men, around 21 years old when they enlisted, and most had worked either as laborers or field hands before enlisting. A large number of soldiers were born in Kentucky and enlisted in Louisville, Lexington, or Paducah. There were a large number of Virginians, and quite a few from the Carolinas, along with a handful of others from various Southern states. Given their ages and backgrounds, most had probably been born into enslavement.<sup>14</sup>

There were some exceptions. Some enlisted men were career soldiers on their second or third enlistment. There a former bricklayer, several waiters, a shoemaker, a carpenter, and several musicians, among others. There were some northerners: George Ringold, a private in Company K, was a native of Philadelphia, as were a few other soldiers. Isaac Henderson was from Brooklyn, New York. There was a Connecticut native in Isaac Antone, and George Jackson was from Detroit. Some came from even further away. Charles Titus and Thomas Jefferson were born in Haiti, and Henry Mason was from Jamaica. None of them had traveled as far as John Histon from Maui, then a part of the Sandwich Islands.<sup>15</sup>

Background did not necessarily correlate with rank. In fact, most of the enlisted men born outside the South held the rank of private, at least in 1873, while many Southern-born soldiers were noncommissioned officers. Sgt. Solomon Hollomon, for example, was born in Jacksonville, North Carolina, around 1844. There is a correlation, however, between literacy and rank. Very few soldiers were able to read or write, but the few who did typically, but not always, held higher ranks.<sup>16</sup>

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<sup>13</sup> Dobak and Phillips, *The Black Regulars, 1866-1898*. 238

<sup>14</sup> U.S. Army Register of Enlistments. I could not find any entries on the U.S. Census prior to 1870 for the overwhelming majority of soldiers, which is in keeping with the presumption that they had been enslaved; slaves were typically not named on census records.

<sup>15</sup> U.S. Army Register of Enlistments

<sup>16</sup> It is difficult to determine who, exactly, could read or write unless I was able to find them on a census record, and for the vast majority I could not. But many of the noncommissioned officers signed the petition letter with their own

Another North Carolina native was a Sergeant in Company F named Ellis M. Russell, born in Auburn sometime around February, 1850.<sup>17</sup> As with many Black Americans of the 19th century, there is very little information about his early life, and his name appears in no census records before 1870, in keeping with an early life in enslavement. Attempts to track down any sort of plantation records or slave records come up short. Even the name Russell may be of unclear origins; we can only guess whether the name came from someone in his family, whether it came from the plantation, or whether it came from some other source entirely.

We do know that by 1869, Russell was in Indianola, Texas, where he enlisted in the 25th Infantry.<sup>18</sup> He had previously worked as a field hand, and is described in his enlistment papers as 22 year old, 5-foot-3 Black man. Indianola today is a ghost town, having been wiped out by a succession of hurricanes in the late 19th century, but in the late 1860s it was a growing port city on the Gulf Coast. Ports like this offered opportunities for work outside of the field, and despite racial tensions with the German immigrant community, it was an attractive destination for young Black men in the postwar years.<sup>19</sup>

The Army undoubtedly offered better opportunities for the young Russell than the fields. We must also wonder if he, as a young and intelligent Black man, wanted the respect that the uniform commanded. This is speculation; we can only know for sure that he joined, not why. It is clear that he excelled in the military, rising quickly through the ranks to become a Sergeant.<sup>20</sup> As sergeant, he was responsible for the men of his unit, and despite the racial and social barriers between enlisted and commissioned officers, it must have been a point of pride to have earned that distinction.

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signatures; this does not prove that they could read or write, but in the absence of other evidence, it is the only correlation I could find. See discussion for more on literacy.

<sup>17</sup> His birth year indicated in the Register of Enlistments would be around 1849; His death certificate lists his birthday as February 18th.

<sup>18</sup> U.S. Army Register of Enlistments

<sup>19</sup> Baker, *Ghost Towns of Texas*. 63

<sup>20</sup> Muster rolls, Company F, 25th Infantry

Russell was also one of the few literate enlisted men at the fort.<sup>21</sup> Another was Houston Shelton, a private in Company D, 9th Cavalry. Unlike Russell, there is at least some information about Shelton's early life. According to the 1860 U.S. Census, Shelton was a native of Ashland, Tennessee, part of the free Black community there. His mother was a Black woman, and his father was a white schoolteacher named Jesse Shelton. Shelton enlisted in the Army in 1871 in Memphis, his previous occupation listed as "hair-worker." He was older than most of the other soldiers, having been born around 1840.<sup>22</sup>

John Taylor was born in Fredericksburg, Virginia around 1849. It is unclear whether he was born into one of the free Black families of Fredericksburg, or whether he was born into enslavement on a nearby plantation.<sup>23</sup> He was said to have first entered the Army during the Civil War, on September 20th, 1860, when he would have been 14; it was not uncommon for soldiers enlisting to lie about their age.<sup>24</sup> He enlisted in the 25th Infantry, Company K, on March 9, 1870 at Jackson Barracks, in New Orleans.<sup>25</sup> The fact of his enlisting there is significant; New Orleans attracted a number of free blacks after the war, and became a major site of recruitment into the Army.<sup>26</sup>

Taylor was not the only soldier to enlist at New Orleans. 34 others enlisted there as well, mostly other soldiers in Taylor's company. Henry J. Johnson, from Little Washington, North Carolina, enlisted on the same day as Taylor.<sup>27</sup> They might have even gone to enlist together.

There were nine commissioned officers at the fort in July, 1873. The Commanding Officer of the fort was Captain Francis F. Dodge, who also in command of Company D, 9th Cavalry. In command of Company F, 25th Infantry, was Captain Lemuel Pettee. Captain James S. Tomkins commanded Company K, 25th Infantry. 1st Lieutenant Michael L. Courtney, 25th Infantry, served as post

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<sup>21</sup> Exhibit "A", Proceedings of a general court martial, PP-3542

<sup>22</sup> 1850 U.S. Census. U.S. Army Register of Enlistments. It is possible that there was another Houston Shelton, but all of the information on the census appears to match with Shelton's enlistment papers.

<sup>23</sup> There was at least one Taylor family in Fredericksburg at the time, but according to the 1860 Census, they did not have a son named John

<sup>24</sup> *Army and Navy Journal*, 16 August 1873, 15

<sup>25</sup> Register of Enlistments

<sup>26</sup> Blassingame, *Black New Orleans, 1860-1880*.

<sup>27</sup> Johnson would eventually be one of the enlisted men tried over the petition following Taylor's death.

quartermaster, in charge of provisions and supplies for the fort. 2nd Lieutenant Henry P. Ritzius was post adjutant, treasurer, and signal guard. Major William P. Gould of the pay department served as paymaster. A new officer had been promoted to 1st Lieutenant of Company D, 9th Cavalry, one Martin B. Hughes.<sup>28</sup>

The fort's doctor was Assistant Surgeon Peter J.A. Cleary. As Post Surgeon, Cleary had overseen the construction of the post's hospital, and was the sole medical officer in charge of treating every enlisted and commissioned soldier at the fort. Cleary was an Irish immigrant, born in 1839 on the island of Malta to an Irish father and a Cretan mother. He grew up in Galway, and went to medical school at the Royal College of Surgeons in London. He immigrated to America in 1860, and in 1862 applied to be an Army surgeon. He was initially rejected; when asked during his exam who Hippocrates was, he replied "don't know." He applied again, and was accepted, serving in the Army of the Cumberland.<sup>29</sup>

After the war, Cleary was stationed in Chattanooga, TN, with the Department of the Cumberland. He was apparently not very well liked. In 1868, he was tried by court martial for a variety of offenses, including many incidents of drunkenness and drunken arguments, claiming money for a horse, publicly insulting a fellow officer in front of enlisted soldiers, and peeping on an officer's wife while she undressed and used her chamber pot. Cleary was found not guilty of most charges, except that of drunkenness on duty and publicly insulting an officer. Regardless of the outcome of the trial, the very fact that so many charges were brought against him, and with every officer of his post testifying against him, suggests that he was not exactly popular.<sup>30</sup>

Enlisted men at Fort Stockton faced court martial charges, as well, though none as incendiary as Cleary's. These trials hint at the various tensions and rivalries that sometimes existed among enlisted soldiers. James Morgan was found guilty of stealing an expensive coat from Samuel Gant, another

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<sup>28</sup> Fort Stockton, July 1873, U.S. Returns from Military Posts

<sup>29</sup> Peter J.A. Cleary, Personal papers, Medical Officers' Files, RG 94

<sup>30</sup> Peter J.A. Cleary, Court Martial OO-3244

member of his company. John Brown was found guilty of using abusive language against George Moore, another soldier in his company. George Roberts was found guilty of stealing a pocketbook from one soldier and selling it to another.<sup>31</sup>

Other cases reveal a tension between the soldiers and the general public. Anthony Jones, Company D, 9th Cavalry, was found guilty of stealing a pistol from Lebron Telemantes, a citizen living near Fort Stockton. Woodson Robinson, of Company F, was found guilty of stealing money from a citizen who worked in the post garden.<sup>32</sup>

Still other cases show tensions between soldiers and their work. Green Lackey, a private in Company D, was found guilty of sleeping on the job. In addition to charges of abuse, John Brown was also found guilty of feigning illness to avoid work duty. Frank Marshall, while stationed with Company F at Fort Clark in 1870, was found guilty of sleeping on the job, losing his musket, and telling an officer that he "didn't give a damn" what had happened to it.<sup>33</sup> Desertion was common.

Almost every enlisted soldier accused of a crime, especially if we was in the lower ranks, was found guilty. That does not mean that anyone actually did what he was accused of doing, but it does imply that there were systematic biases that stacked the odds against any soldier accused of a wrongdoing, especially at Fort Stockton; if we compare the outcomes of trials against soldiers at Fort Stockton, we begin to see far more guilty verdicts there than elsewhere. As with Cleary, the outcome of the trial is only part of the story anyway: as important as whether or not Anthony Jones stole from a citizen is that he was accused of having done so, because it means someone wanted to make that accusation against him.

One notable and unfortunate example of this was the case of Benjamin Mew, who was accused in April, 1873 of having poisoned his wife, Martha, a laundress at the fort. Mew was found guilty based

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<sup>31</sup> Every one of these trials involves someone from Company D. That could say something about the quality of command of the company, or it could say something about biases against that company by soldiers at the fort.

<sup>32</sup> Jones, Anthony, Court Martial PP-3104. Robinson, Woodson, Court Martial PP-3432

<sup>33</sup> Lackey, Green, Court Martial, PP-2809. Brown, John, Court Martial, PP-3432. Marshall, Frank, Court Martial, PP-1338

primarily on the testimonies of Martha Mew and Corporal John Lee, but the verdict was ultimately remitted by General C.C. Augur of the Department of Texas, who suspected that Lee and Martha Mew were having an affair. This sort of trial revealed one of many interpersonal conflicts simmering beneath the surface at the fort, and only hints at the others that were never revealed so publicly.<sup>34</sup>

### The Petition Letter

Private John Taylor was in and out of the post hospital at Fort Stockton with some regularity.<sup>35</sup> He was admitted to the hospital on February 11th, complaining of a pain in his hip. He was diagnosed with neuralgia and stayed off duty until April 29th<sup>36</sup> On May 6th, he went to the hospital again, this time for chest pains; he was prescribed a liniment and kept in the hospital for nine days.<sup>37</sup> After being discharged from the hospital, Taylor went to the Lieutenant of his company, J.S. Tomkins, to complain that Cleary refused to further excuse him from work duty; when Tomkins spoke to Cleary about the matter, Cleary assured him that Taylor was only malingering. In fact, he was positive that Taylor was malingering precisely because Taylor had been to the hospital several times and had never been diagnosed with any illness.<sup>38</sup> Malingering was a common response to the complaints of Black soldiers, and it was not uncommon for a soldier to receive punishment instead of medical care.<sup>39</sup> So to Peter Cleary, Taylor's repeated hospital visits suggested nothing medically significant, only a desire to shirk his duties.

On the evening of June 29th, Tomkins informed Cleary that Taylor was not on duty, instead laying in his quarters saying he was sick with a headache. Cleary (apparently reluctantly) admitted him

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<sup>34</sup> Benjamin Mew, Court Martial proceedings, PP-3110. Barnett, *Ungentlemanly Acts*. 171-172

<sup>35</sup> Tomkins to AG, Department of Texas, 16 October 1873. Because there were two soldiers named John Taylor in the same unit at the same time, it's not always possible to know which records correspond to which person. The John Taylor at the center of this story was sometimes referred to as "John Taylor 2nd" (and the other as "John Taylor 1st"), but not always. It is especially confusing where his medical records are concerned, although we can obviously assume that any records made after his death would have referred to "John Taylor 1st."

<sup>36</sup> Taylor, John 25th Inf, Co. K in Carded Medical Records

<sup>37</sup> Cleary to Post Adjutant, Fort Stockton, 15 July 1873, Letters Received, Headquarters Fort Stockton, Texas, NARA RG

<sup>38</sup> Tomkins to Dept of Texas, Oct. 16, 1873, LR Dept. of Tex.

<sup>39</sup> Humphreys, *Intensely Human*. 72. John Brown D/9th was tried for this at Fort Stockton.



to the hospital for "several weeks" before discharging him again.<sup>40</sup> When Taylor returned to the hospital on July 5th, still complaining of a "misery" in his head, Cleary reportedly said "'Oh! Shit, God damn it. I want you to get up out of that bed and stir around. I don't want to catch you in it any more to day,'"<sup>41</sup> and ordered Taylor back outside. Taylor went back to the hospital the next morning, but Cleary refused to treat him, or even examine him.

On July 7th, Taylor went, for the last time, to the hospital seeking treatment for a headache. Cleary examined him, but, still convinced that he was malingering, refused to treat him and instead ordered him to the guard house as punishment for trying to dodge his work duties.<sup>42</sup> This was not a minor punishment. The cell Taylor was placed in had only a small opening as a window, on day that reached a high temperature of 102 degrees.<sup>43</sup> Dodge, the post's Commanding Officer, was informed of Taylor's confinement, but didn't see any need to interfere.<sup>44</sup> Taylor spent the night in the guard house, where according to eyewitnesses, he threw himself against the walls in agony.<sup>45</sup>

The next morning, Dodge instructed Cleary to release Taylor unless charges were brought against him.<sup>46</sup> Cleary once again examined Taylor. In his words he "detected nothing" medically wrong.<sup>47</sup> According to the soldiers, he felt Taylor's pulse and said "you are damn near gone up," before telling the guard to take him back to the guard house.<sup>48</sup> The Officer of the Day asked the Sergeant of the Guard why Taylor was not at work; when the Sergeant told him that Taylor was not able to walk, the Officer of the Day ordered Taylor back to work, saying "there is nothing the matter with him, the doctor says he is playing off."<sup>49</sup> Four members of the guard helped Taylor to his post, but were met along the way by a representative of the Officer of the Day, who ordered Taylor back to the guard

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<sup>40</sup> Tomkins to Dept of Texas, 16 October 1873, LR Dept. of Tex. Cleary to Post Adjutant, Fort Stockton, 15 July 1873, LR Fort Stockton

<sup>41</sup> Thomas, et. al. to AG, 12 July 1873, Letters Received, Department of Texas, NARA RG 393, M1189 Reel 2.

<sup>42</sup> Ibid.

<sup>43</sup> Fort Stockton in MRCC FORTS climate data

<sup>44</sup> Dodge to Asst. Adj. Gen, Jul. 18, 1873, Letters Received, Department of Texas, NARA RG 393, M1189 Reel 1, Vol. 3

<sup>45</sup> Thomas, et. al. to AG, 12 July 1873, LR Dept. Tex.

<sup>46</sup> Dodge to Asst. Adj. Gen, Jul. 18, 1873, LR Dept. Tex.

<sup>47</sup> Cleary to Post Adjutant, Fort Stockton, 15 July 1873, LR Fort Stockton

<sup>48</sup> Thomas, et. al. to AG, 12 July 1873, LR Dept. Tex.

<sup>49</sup> Ibid.

house. The Officer of the Day ordered that Taylor's bedding be removed, so Taylor slept on the floor with only a blanket, and ate only bread and water. Soldiers would later recount that he was "in a delirious condition," but were prevented from comforting him under orders from the sergeant of the guard. Another doctor, Alex Buffington, was visiting the fort on his way to San Antonio, and both he and Cleary had told Tomkins that Taylor was malingering. This time Captain Tomkins was convinced, and intended to press charges against him.<sup>50</sup>

On the morning of July 9th, the 5th anniversary of the ratification of the 14th Amendment, Taylor was once again sent to the hospital from the guard house. This time, even Cleary thought he seemed out of sorts, although he and Buffington still saw nothing wrong with him. Cleary began to suspect that Taylor had "an affliction of the brain," and sent him to a hospital bed, where he was given "light and nourishing drinks."<sup>51</sup> Taylor remained "yet in profound sleep" the following morning, still under treatment for a presumed affliction of the brain. Dr. Buffington suspected opium poisoning, and Cleary concurred, although they admitted they did not know where he would have gotten opium. Taylor's condition did not improve, and in Cleary's words, his "stupor" only intensified as the afternoon went on.<sup>52</sup>

John Taylor died at around 6 PM, on July 10th, 1873.<sup>53</sup> He was 24 years old. No specific record exists of his memorial, but it was common for enlisted men to be looked after in death by their comrades, and it was they who performed the burial.<sup>54</sup> By law, a deceased soldier's worldly possessions were inventoried by his commanding officer, witnessed by the other commanding officers at the post.<sup>55</sup> Captain Tomkins' inventory of Taylor's possessions notes basic details of his person and death: he was 5' 7", brown skin, brown eyes, and black hair. He died in possession of several pairs of flannel drawers,

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<sup>50</sup> Tomkins testimony, 28 August 1873. Unless otherwise noted, any testimony cited is in Court Martial Proceedings, PP-3542, Dept. Texas 1873, JAG, NARA RG 153

<sup>51</sup> Cleary to Post Adjutant, Fort Stockton, 15 July 1873

<sup>52</sup> Ibid.

<sup>53</sup> Ibid.

<sup>54</sup> Rickey, *Forty Miles a Day on Beans and Hay*. 333

<sup>55</sup> Ibid. 334

12 pairs of cotton socks, a coat, a hat, some shirts, and other assorted uniform and fatigue clothing. One pair each of boots, shoes, and wool socks, along with one rubber blanket. The word "haversack" is crossed out, and in its place the words "wool blankets" are written in; Taylor had three. He had no money, but owed no debts.<sup>56</sup>

It was common to send a deceased soldier's belongings, or the proceeds of their sale or auction, to the soldier's next of kin, along with the condolences of the commanding officer. Taylor's belongings were sold within days of his death, and the proceeds forwarded to the Adjutant General in Washington, D.C.<sup>57</sup>

It was unclear to Cleary and Buffington what had caused Taylor's death. Cleary, with Buffington Present, found nothing that caught his eye during the postmortem. In keeping with medical standards of the time<sup>58</sup>, the postmortem consisted mainly of opening Taylor's body cavity and visually inspecting his organs. Nothing appeared untoward, although Cleary noted that Taylor's spleen was "studded with tubercles," which he dismissed as being not particularly unusual.<sup>59</sup> In the absence of any physical evidence suggesting cause of death, Cleary determined that Taylor must have died of "most likely of mental or nervous depression, due probably to 'nostalgia.'"<sup>60</sup> In other words, he had essentially induced his own death through a deep sense of melancholy.

The idea of death by nostalgia wasn't completely unheard of at the time. An 1868 medical dictionary describes nostalgia as a condition "commonly attended by slow wasting, and sometimes by hectic, which may speedily induce death."<sup>61</sup> A modern analogue might be severe depression, or even PTSD.<sup>62</sup> As a diagnosis, however, it was very often attributed to immigrants and other people who may

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<sup>56</sup> Return of Effects of Deceased Soldiers, NARA

<sup>57</sup> Dodge to AG, USA, 26 July 1873, Letters Received, Department of Texas, NARA RG 393, M1189 Reel 1, Vol. 3

<sup>58</sup> Gillett, *Army Medical Department*. 50

<sup>59</sup> Cleary to Post Adjutant, Fort Stockton, 15 July 1873, NARA RG 393, M1189

<sup>60</sup> Return of Effects of Deceased Soldiers, NARA

<sup>61</sup> Dunglison, *Medical Lexicon*. 664

<sup>62</sup> Willey and Scott, *Health of the Seventh Cavalry*. 79, 288

have been considered more prone to flights of fancy.<sup>63</sup> In fact, Cleary himself partly arrived at this diagnosis based on the belief that "many, if not most men of his race" were especially susceptible to superstition. To hear Cleary tell it, Taylor either frightened himself to death, or died from some other psychological process.

The other soldiers saw it differently. What they saw was a doctor who routinely neglected to take their medical concerns seriously, who treated them with condescension and contempt when they went to him for help.<sup>64</sup> Where Cleary saw a simple case of malingering that became somehow problematic, the other soldiers saw a doctor who intentionally and maliciously refused to treat a sick and dying man, because he did not take Taylor's or any other soldier's health seriously. Where Cleary saw valid punishment for disobedient behavior, the other soldiers saw a sick man sent to stew in the horrible conditions of the guard house until he died a death that was not only preventable, but which had been encouraged by medical ruthlessness. To them, this was murder.<sup>65</sup>

The next day, Sgt. John Thomas (Co. F) and Cpl. James Cook (Co. K) met in Company K's barracks to propose drafting a statement regarding Taylor's poor treatment.<sup>66</sup> That afternoon they began spreading the word a meeting that every enlisted man should attend, which would be held in Co. F's dining hall that evening. Word spread quickly: Solomon Holloman told George Ringgold, Ringgold told John Early, "and all the rest of the men."<sup>67</sup> The goal of this meeting was to write to the Adjutant General in Washington, about Taylor's treatment, stating that Cleary had murdered Taylor; "it was in the interest of all soldiers to have the matter investigated."<sup>68</sup>

When Sgt. Solomon Holloman arrived at Co. F's dining hall that evening, it seemed to him like most of the other soldiers of the garrison were already there.<sup>69</sup> Noncommissioned officers and soldiers

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<sup>63</sup> Rosen, "Nostalgia."

<sup>64</sup> Thomas, et. al. to AG, 12 July 1873, LR Dept. Tex.

<sup>65</sup> Ibid.

<sup>66</sup> Holloman testimony, 27 August 1873.

<sup>67</sup> Early testimony, 28 August 1873; although Early later said did not attend the meeting himself.

<sup>68</sup> Holloman testimony, 27 August 1873.

<sup>69</sup> Ibid.

of all companies were present. While it's possible that some men only came out of curiosity, others would later state that they came expressly because they wanted to participate in writing that letter.<sup>70</sup> The first order of business was to elect Cpl. James Cook, Company K, as chairman, with George Ringold serving as secretary.<sup>71</sup> There was a general air of outrage, but no one shouted or raised his voice.<sup>72</sup> Allen Crawford, a Private in Company F who did not attend the meeting, later said that he heard Holloman walking through Co. F's dining hall saying "all the soldiers of the garrison should fall in and go up to Dr. Cleary's and take him and kill him, and cut his cock off, and tie him to the flag staff."<sup>73</sup> The other men disagreed. John Thomas addressed the crowd and suggested that "we can take it in a better way" by getting all the soldiers to sign a joint statement. This was the suggestion that won out. Holloman offered to get paper for the statement -- but added that "any man who would see his comrade murdered and would not sign for his rights ought to be murdered."<sup>74</sup>

Sgt. Russell rose and announced to the crowd that they were going to submit a formal statement regarding Taylor's poor treatment.<sup>75</sup> He assured the men that this was not a secret meeting, but he asked that anyone who did not want to participate should leave.<sup>76</sup> Sgt. Thomas said he wanted the statement to go through the post Commanding Officer directly to the War Department for investigation. Other men spoke in support of Russell and Thomas' suggestions. Russell, Ringold, and most of the others seemed to agree that no one should be compelled to sign. Several people anticipated that the officers would make threats to try to bluff them out of signing, because they were "scared themselves" and would want to get out of having to forward the statement.<sup>77</sup>

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<sup>70</sup> Early testimony, 28 August 1873

<sup>71</sup> *Army and Navy Journal*, 16 August 1873, 15.

<sup>72</sup> Crawford Testimony, 30 August 1873

<sup>73</sup> Ibid.

<sup>74</sup> Mew testimony, 28 August 1873

<sup>75</sup> Beaton testimony, 28 August 1873

<sup>76</sup> Holloman testimony, 27 August 1873

<sup>77</sup> Mew testimony 28 August 1873

Russell said that he hoped the men all understood what they were signing for, and that it would be a formal letter, not a personal insult to Cleary.<sup>78</sup> Russell and the other officers emphasized that their statement would not be disrespectful towards any officer, at least not any more than Taylor had been disrespected.<sup>79</sup>

The majority then voted to appoint a committee to collect statements about Cleary's poor treatment of the soldiers. Holloman, Ringold, Johnson, Houston Shelton, Russell, and Richardson were appointed. Sgt. Ellis Russell and Pvt. Houston Shelton (Co. D) were appointed to the committee to write the statement itself once the information was gathered. Other men stood up and spoke out about Taylor's treatment by Cleary; Private Benjamin Mew arrived at the meeting just in time to hear Sgt. Thomas apologizing for having spoken for as long as he did, before he yielded the floor to men from Co. K, who had known Taylor better than he had.<sup>80</sup>

In the midst of all of this, the enlisted men also found time to pay tribute to Taylor's memory: the *Army and Navy Journal*, in its August 18 issue, published a letter from the men of Company K, 25th Infantry:

"At a meeting of the enlisted men, Company K, Twenty-fifth Infantry, called at Fort Stockton, Texas, July 11, 1873, for the purpose of expressing their sympathy for the loss of a comrade, private John Taylor, 2nd, who died Thursday, July 10, 1873, and of which Corporal James Cook was chairman, and Private George Ringold secretary, the following preamble and resolutions were unanimously adopted:

"*Whereas*, it has pleased Almighty God, in his divine wisdom, to take from our midst our friend and comrade, and

"*Whereas*, We wish to place on record our appreciation of his merits and moral worth, and to express our own grief and sympathy with his family,

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<sup>78</sup> Beaton testimony; Mew testimony, 28 August 1873

<sup>79</sup> Beaton testimony, 28 August 1873

<sup>80</sup> Mew testimony, 28 August 1873

"*Resolved*, That we feel deeply, and earnestly deplore the loss of our friend and comrade, whose upright character, genial disposition, and kind manner were a constant source of happiness to us all.

"*Resolved*, That in his devotion to duty - he having served faithfully from September 20, 1863, to the date of his death - we recognize the true spirit of the soldier as an example worthy of all emulation.

"*Resolved*, That the minutes of this meeting be published in the Army and Navy Journal and New Orleans *Republican*"<sup>81</sup>

All that was left was to draft the letter to the Adjutant General. Shelton and Russell must have worked into the night; the final letter is dated July 12th, one day after the meeting. It begins with a formal declaration of unity:

"We the undersigned enlisted men of this command have the honor of most respectfully calling the attention of the proper authorities (through the Department and Post Commander) to certain facts:— relative to the death of Private John Taylor 2nd Co. "K" 25th U.S. Infantry, who expired on the 10th inst. at this post; And from what we have witnessed, and from expression uttered by the Post Surgeon at different times, we believe the deceased came to his death from intentional neglect on the part of the Post Surgeon, P.J.A. Cleary, U.S.A., who from malicious feelings of a personal nature, refused to give or allow him proper treatment, from the 3rd day of April, 1873, to the 7th day of July, 1873, on which day he was conveyed to the guard house."<sup>82</sup>

The letter goes on to detail patterns of abusive treatment from Cleary. It states that Taylor was consistently denied proper treatment. It outlines the harsh treatment Taylor received in the guard house. It outlines how Cleary would tell soldiers with medical complaints to "rub themselves with stones or dobbies" instead of offering to treat their ailments. "The above facts are extracted from numerous statements made by those who witnessed the same... these maltreatments, abusive and harsh actions of

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<sup>81</sup> *Army and Navy Journal*, 16 August 1873, 15

<sup>82</sup> Thomas, et. al. to AG, 12 July 1873, LR Dept. Tex.

this Surgeon, towards the enlisted men of this post who may happen to come under his care, has been going on for the past year or so, but not wishing to annoy our Superiors, we have born with it until now. But the above is of such a serious and aggravating nature, that we think it worthy of the consideration of the proper authorities."<sup>83</sup>

Sunday morning at mail call, Shelton proudly took credit for having done the "hard work" of composing the letter, and said that Russell was the one who wrote it.<sup>84</sup> Everyone else was still as outraged as the night before, and excited about the letter, and that night a large crowd assembled in Co. F's barracks to sign the petition.<sup>85</sup> Russell and Thomas read the statement several times aloud for the assembled crowd, and then they asked everyone to come up and sign the letter, round-robin style so that no one would be singled out (although Russell and Thomas themselves were the first to sign).<sup>86</sup>

Out of the 178 men currently stationed at the fort, 129 signed the letter.<sup>87</sup> It was signed by soldiers from all three companies, across all the enlisted ranks, from private to first sergeant; and from a variety of different roles, including several musicians, one of the wagoners, the post saddler, and one of the blacksmiths.

Out of the 129 signatories, only 22 signed with full signatures. The majority of the signatories signed with "X" marks, their names filled in by a third party (the X identified as "his mark"). This implies that the majority were not able to read or write, and their participation relied on the assistance of the literate. Literacy did not correlate with rank: several privates signed their own names, including Houston Shelton, one of the letter's authors; while Sgt. Absolem Ely of Co. D signed with an X.<sup>88</sup>

Monday morning at 6 AM, shortly after Reveille, Post Adjutant Henry P. Ritzius found the letter sitting on the Commanding Officer's desk.<sup>89</sup> Ritzius brought the letter to Commanding Officer Francis

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<sup>83</sup> Thomas, et. al. to AG, 12 July 1873, LR Dept. Tex.

<sup>84</sup> Ezra B. Houston testimony, 28 August 1873

<sup>85</sup> Solomon Holloman testimony, 27 August 1873

<sup>86</sup> Ibid.

<sup>87</sup> Thomas, et. al. to AG, 12 July 1873, LR Dept. Tex.

<sup>88</sup> See the discussion for more about the implications for literacy among soldiers

<sup>89</sup> Henry P. Ritzius testimony, 28 August 1873



Dodge; Dodge immediately called for his Sergeant Ellis Russell, who took credit for having written it with Pvt. Houston Shelton. He then called for the other noncommissioned officers.<sup>90</sup> None of the men said they had a personal complaint with Cleary, but they all felt that Cleary had intentionally neglected to treat Taylor because of personal feelings towards him.

Over the next few days, Dodge informed the other officers about the petition, and as each commissioned officer learned of its existence, he called on the noncommissioned officers in his company. The initial reaction seems to have been largely unconcerned, if not sympathetic to the soldiers. J. S. Tomkins, the commanding officer of Company K, did not even learn about the letter until two days had passed, and then he did nothing about it for two or three after that because he didn't think there was a problem; in his mind the letter was a reasonable response to Taylor's death.<sup>91</sup> It was "not exactly the right thing to do" but he could see "no positive harm in it."<sup>92</sup> It was only after speaking with the other officers about the matter that he began to see things differently. Over the next few days, the commissioned officers appear to have grown unsettled by the unabated sense of outrage among the soldiers. It must have shaken their confidence in their command; M. L. Courtney, commander of Company F, would later recall that he saw men gathering "in little groups" earnestly discussing the matter, and that the enlisted officers under his command would refuse to come when summoned; although no one was ever heard using overtly mutinous language.<sup>93</sup>

On July 15th, Cleary drafted a letter to Post Adjutant Ritzius in response to the charges in the soldiers' letter. Over the course of a 20-page, forceful letter, Cleary was adamant that he had been neither malicious nor negligent. In Cleary's telling, he had no reason to suspect that Taylor had been telling the truth about his health, because Taylor was a serial malingerer who frequently fabricated health problems to avoid work. Even though Taylor did eventually die, he had no reason to think there

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<sup>90</sup> F.S. Dodge testimony, 2 September 1873

<sup>91</sup> J.S. Tomkins testimony, 28 August 1873

<sup>92</sup> J.S. Tomkins testimony, 2 September 1873

<sup>93</sup> M.L. Courtney (Judge Advocate) testimony, 1 September 1873

was anything medically wrong until the day of Taylor's death. Taylor was simply a serial malingerer who died of unforeseeable causes.<sup>94</sup>

Any original papers or reports associated with Cleary's postmortem of Taylor are missing; Cleary's explanation is therefore the only medical account we have.<sup>95</sup> In his letter, Cleary asserts that he and Buffington had been unable to diagnose anything before Taylor's death. The lesions on Taylor's brain and spleen discovered postmortem were not enough to account for Taylor's death. To Cleary, it was apparent that Taylor must have suffered from some kind of nostalgia. He added that Taylor had once expressed fear that he had been "houdoued;" this was sufficient explanation to Cleary, "owing to the great superstition of many, if not most, men of his race."<sup>96</sup>

Nothing seemed to be as upsetting to Cleary as the accusation of negligence, to say nothing of malicious negligence. "Well let me admit that I may be mistaken in a diagnosis, that a man might be sick and I not able to detect even a sign of sickness, who can claim to be infallible or omniscient, but that I 'maliciously or from personal motives' refused him treatment.' Good Heaven when did turn such a monster. Can a human being turn devil in a day. to such assertions, with my last breath, I say no. it is more than terrible false as God is my Judge. He Knows it is false and falsehood is stamped on its face."<sup>97</sup>

Why, Cleary asked, would he have had personal motives for treating Taylor maliciously? If Taylor was repeatedly admitted to the hospital, "where was the neglect in this[?]"<sup>98</sup> He insisted that Taylor had not been delirious, but was simply trying to get out of work duty. He insisted that he did not order Taylor outside, but that if he had "it may well be asked, if it were not a proper course to a man laying around the ward and not suffering with any particular disease. might not such action be

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<sup>94</sup> Cleary to Post Adjutant, Fort Stockton, 15 July 1873

<sup>95</sup> See discussion for more about Taylor's cause of death

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

beneficial to him."<sup>99</sup> He admitted that yes, he did swear at Taylor ("Oh! Shit, God damn it..."), but that his true motivation was to get Taylor to "stir around, move, out in the air, and brush up," which would have been beneficial to someone with Taylor's symptoms. "I admit I may have used the exact words, but as I remarked before, one may often use words to convey an idea, more expressive than required, and that don't read well on paper."<sup>100</sup>

As for the accusation that he would order soldiers to "rub themselves with stones or dobbies," Cleary admitted that yes, he would sometimes tell them to rub themselves with stones or adobe bricks, but that there was no harm in telling soldiers that they needed "a good wash."<sup>101</sup> "the fact is that men constantly feigned sickness or lameness and it has repeatedly occurred that when I knew the man was feigning I would tell him to rub the affected part with an adobe. They knew what it meant. I never knew of any of them doing it or suffering from the recommendation."<sup>102</sup>

That same day, M. L. Courtney again called on enlisted officers of his company, Henry J. Johnson and Peyton Cook, both of whom confirmed that they had signed the petition. In Courtney's recounting, Cook was not "directly disrespectful," but his general conduct was "stubborn and disrespectful... markedly different from usual behavior of Enlisted men."<sup>103</sup> Courtney told the men they should remove their names from the letter, but Johnson replied that he did not care for "advice of an officer" on the matter; on his way out the door, he turned and said that he would not remove his name from the petition, and would accept the consequences of his actions.<sup>104</sup>

That same day, July 15th, was pay day and some of the men got drunk to celebrate.<sup>105</sup> The letter must have added an edge to the usual pay day celebrations. John Early would later recall having overheard a conversation, while he was lying on his bunk, between Holloman and Ringgold, in which

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<sup>99</sup> Ibid.

<sup>100</sup> Cleary to Post Adjutant, Fort Stockton, 15 July 1873

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

<sup>103</sup> M.L. Courtney (Judge Advocate) testimony, 1 September 1873

<sup>104</sup> Ibid.

<sup>105</sup> PP-3542 exhibit "A"

Holloman said that the men who hadn't signed would be murdered. Holloman, according to Early, said that 127 men had signed, so it didn't matter if a few more people did not, but "if they cut up about it," they would have to either be forced to sign, or be killed.<sup>106</sup>

It would seem that peer groups played a role in who did or did not sign the letter: John Early didn't sign because Benjamin Mew hadn't. On July 16th, the two men went to Tomkins to complain that they had been threatened directly and indirectly for not signing, and were afraid to sleep in their barracks at night. Early and Mew, said Tomkins, were worried that there was "constant talk among men of taking matters into their own hands and asserting their rights, and showing that they were not to be imposed upon."<sup>107</sup>

That night, the officers began calling on the noncommissioned officers in their units and reading to them the 35th Article of War and the 220nd paragraph of the Revised Army Regulations. The 220nd paragraph of the Army Regulations says, in full: "Deliberations or discussions among any class of military men, having the object of conveying praise, or censure, or any mark of approbation toward their superiors or others in the military service; and all publications relative to transactions between officers of a private or personal nature, whether newspaper, pamphlet, or hand-bill, are strictly prohibited."<sup>108</sup> The 35th Article of War deals specifically with mutiny, and says in part that "[a]ny officer or soldier who shall begin, excite, cause, or join in, any mutiny or sedition, in any troop or company in the service of the United States, or in any party, post, detachment, or guard, shall suffer death, or such other punishment as by a court-martial shall be inflicted."<sup>109</sup>

Dodge called on all of Company D and read those same two passages to them, adding that no action would be taken against them if they would remove their names from the letter. He assured them that Taylor had been examined by a doctor besides Cleary, and that both doctors had agreed with

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<sup>106</sup> John Early testimony, 28 August 1873

<sup>107</sup> J.S. Tomkins testimony, 28 August 1873

<sup>108</sup> *Revised United States army regulations of 1861. With an appendix containing the changes and laws affecting army regulations and Articles of War to June 25, 1863*, Washington: U.S. Govt. Print Off., 1863, 38

<sup>109</sup> Benet, S. V., *A Treatise on Military Law and the Practice of Courts-Martial*, New York: D. Van Nostrand, 1868, 391

Cleary's diagnosis. The meeting in Company F's dining hall, he said, was unwarranted and illegal, but he would take into account that they were "ignorant" of that fact. He emphasized that by withdrawing their names, they were not saying they had made a false report, only disavowing the illegal action they had taken.<sup>110</sup> Instead of their current course of action, it was preferable that they defer to the officers. ] Dodge felt that under the 35th Article of War, it was not proper to bring general complaints like these against officers in this way, and that it was the "province of the Commanding Officer to investigate."<sup>111</sup> Dodge said that it was the "promise of the Commanding Officer" to investigate Taylor's death, and that this would be done; he did not tell them what actions, if any, he would recommend.<sup>112</sup> In fact, the Commanding Officer had already concluded that Cleary had done nothing wrong, but that the letter posed a breach of protocol.<sup>113</sup>

Most of the enlisted soldiers appear to have paid little attention to the threats. George Frazer, a local butcher, spoke with the hospital cook<sup>114</sup> in his shop around this time. Frazer suggested they take their names off, but the hospital attendant refused to do so, because he said he thought the officers were bluffing with their threats.<sup>115</sup> Henry Cook told the man that signing was mutinous, but the man disagreed, saying that they had used no weapons. Frazer also told Pvt. John Wheeler that the officers were assembling a court to try them, and that the accused would be hung or shot; Wheeler responded by saying that the officers would have to hang or shoot 129 men, and that no one would take their names off the paper.<sup>116</sup>

The existence of the letter was proof positive that there had been discussions among the soldiers having the objective of conveying censure against a superior officer. So why did the officers not immediately charge anyone for having signed? Why did they instead urge them to remove their names?

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<sup>110</sup> F.S. Dodge testimony, 2 September 1873

<sup>111</sup> Dodge to Asst. Adj. Gen, 18 July 1873

<sup>112</sup> F.S. Dodge testimony, 2 September 1873

<sup>113</sup> Dodge to Asst. Adj. Gen, 18 July 1873, LR Dept Tex

<sup>114</sup> Possibly the Hospital Steward J. Johnson; no one is officially listed as a cook on the muster rolls

<sup>115</sup> George M. Frazer testimony, 28 August 1873

<sup>116</sup> Ibid.

In later testimonies, the officers would frame this as something like a recognition that the soldiers had signed in error, or were otherwise ignorant of what they were doing. But in urging people to disavow the letter they had signed, they were also attempting rob to this document of its legitimacy. The officers' actions suggest that it was not the outrage or discussions of censure that truly bothered them, but the fact that soldiers, who outnumbered the officers ten to one, had organized this protest.

Some soldiers apparently did take up the offer to have their names removed from the letter, including Sgt. Holloman. There are multiple statements from soldiers dated July 17th, all requesting that their names be removed. All letters follow a nearly identical format, and all were witnessed by the same person, Hospital Steward J. Johnson.

A typical statement reads:

"To whom it may concern, I Wm. H. Jones Co F 25 Inf having signed a paper dated July 12, 1873 relating to John Taylor, Co K 25 Inf hereby state I can neither read nor write, that I signed the paper not knowing what it was about at the time, that having since learned its nature I of myself know nothing of its truth and therefore desire to have my name taken off said paper. I make this request of my free will and accord."<sup>117</sup>

Another says:

"I Robert Jones having signed my name to a certain paper relative to John Taylor late Co K 25 Inf and not having heard the said paper read I know nothing of its contents whatever but I signed it because I saw other men signing. having since learned the contents of said paper I declare I know nothing of the truth or falseness of said paper and therefore desire to have my name taken off said paper and make this request of my own free will and accord."<sup>118</sup>

In total, 26 men removed their names from the letter, leaving 103 final signatories.<sup>119</sup>

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<sup>117</sup> Wm. H Jones to M.L. Courtney, 17 July 1873, LR HQ Fort Stockton

<sup>118</sup> Robert Jones to M.L. Courtney, 17 July 1873, LR HQ Fort Stockton

<sup>119</sup> Thomas, et. al. to AG, 12 July 1873, LR Dept. Tex.

On July 18th, Francis Dodge sent a letter to the Assistant Adjutant General of the Department of Texas, notifying him of the soldiers' letter. After briefly summarizing their complaints, Dodge wrote that there "does not seem to be the slightest reason for accusing Dr. Cleary of causing Taylor's death, by intentional neglect or of refusing him proper treatment from malicious motives of a personal nature... I am convinced Dr. Cleary does not and did not understand the nature of the man's disease."<sup>120</sup>

He concedes that there "seems to have been some harsh treatment towards the men by Asst. Surgeon Cleary, but not more than is ordinarily exercised towards soldiers believed to be shamming, by Army Surgeons. There can be no doubt but what his confinement in the guardhouse hastened the man's death. All this same time there is much to be said in justification of such treatment. Colored troops are notorious for having 'miseries' in every part of their bodies, and if the Surgeon would excuse every one who went to him for treatment, there would be very few left for duty."<sup>121</sup>

Dodge was ultimately dismissive of the soldiers' capacity for understanding the problem they had set out to solve, believing that Cleary's medical authority was absolute: "I believe it is generally held by military authorities that the Surgeon's opinion of a man's fitness or unfitness for duty must be considered conclusive... Soldiers have an undoubted right to complain of grievances, as prescribed by the Articles of War, but I do not think they should be permitted to criticize official actions of their superiors in an official communication, the import of which they scarcely understand and about a matter of which they, to say the least, are very incompetent judges."<sup>122</sup>

Dodge and the other officers escalated their requests that the men of their units remove their names, threatening arrest if they didn't. The people who were singled out for arrest were the noncommissioned officers, the ones considered most directly responsible for the conduct of the

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<sup>120</sup> Dodge to Asst. Adj. Gen, Jul. 18, 1873, NARA M1189 reel 1, Vol. 3

<sup>121</sup> Ibid.

<sup>122</sup> Ibid.

Privates in their companies.<sup>123</sup> Several Privates were implicated as well, those who had taken on direct roles in the meeting and in the drafting of the letter. As chairman of the meeting,

As chairman of the meeting, Private Cook was a major target. The morning of the 18th, Cook's commander, M. L. Courtney, called for Cook, read the 220th paragraph of the Army Regulations and the 35th Article of War, along, this time, with the definition of mutiny that appeared in XX Benet's commentary on military law ("quote passage here"). He explained the significance of all of these, and gave Cook until the evening to reconsider his actions or face consequences. When they met again that evening, Cook told Courtney although he had no personal complaints against any officer, he would not remove his name from the letter, and that he preferred to "decide the lawfulness of his acts in the matter" and accept the consequences.<sup>124</sup> Pvt. Johnson told him "Major I am willing to take the consequences of a Court Martial, I won't take my name off that paper."<sup>125</sup>

The following morning, the morning of the 19th, 1st Sgt. John Thomas brought his morning report to Captain Pettee as usual; Pettee asked if he had given any thought to removing his name from the letter. Thomas said he would think about it; later that day, Thomas returned to Pettee and said he would not remove his name.<sup>126</sup> Pettee then sent for the other non-commissioned officers. He read the same documents for them that the other officers had read to their NCOs, and they, too, declined to remove their names. Pettee sent them all to the guard house for confinement.<sup>127</sup> The other officers arrested the NCOs and relevant? Privates in their companies, as well.<sup>128</sup>

In total, 21 enlisted men were arrested and sent to the guard house.<sup>129</sup>

The soldiers remained undeterred; when Jose Maria Bil, a local guide who sometimes worked for the Army, asked a soldier why there were so many sergeants in the guard house, the soldier said that

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<sup>123</sup> Case overview, Court martial PP-3542

<sup>124</sup> M.L. Courtney testimony, 1 September 1873

<sup>125</sup> Ibid.

<sup>126</sup> Lemuel Pettee testimony, 29 August 1873

<sup>127</sup> Ibid.

<sup>128</sup> M.L. Courtney testimony, 1 September 1873

<sup>129</sup> Case overview, court martial PP-3542. See Appendix for a full list of the names.



Dodge had put them there for accusing the doctor of killing a man.<sup>130</sup> The 21 men in the guard house would remain there for the next month, as preparations were made for their trial, in a cell that was originally designed to hold two.<sup>131</sup>

Meanwhile, the medical director of the Department of Texas abruptly ordered Peter Cleary to change posts from Fort Stockton, where he had served for the past four years, to Fort Griffin.<sup>132</sup>

## The Trial

Courts martial were not uncommon at military forts. Soldiers were routinely tried for a range of complaints, from relatively minor complaints up to murder. Court martial justice followed a different model than what was expected or normal in civilian society. A typical trial was conducted by a panel of officers at a given post, presided over by an officer appointed as Judge Advocate. Ideally, the Judge Advocate's role was to ensure justice and fairness, but the role necessitated acting as prosecutor, defender, and judge, making objectivity difficult.<sup>133</sup> It's important to note that this was very much not a jury of peers, but rather an evaluation of the law by a soldier's commanding officers. In every sense, the court martial process preserved military hierarchy.<sup>134</sup>

Several things made this particular trial unusual for the 21 men charged with attempted mutiny. One of the most remarkable things is the fact of a mass trial. Accused soldiers were typically tried individually, but in this case, all were tried together regardless of their alleged degree of participation in the petition letter; so the chairman of the meeting and the men who drafted the letter were tried together with noncommissioned officers who, in the eyes of the commanding officers, had failed to prevent the men of their company from signing. In fact, Bliss would later remark that it would have been

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<sup>130</sup> Jose Maria Bil testimony, 30 August 1873

<sup>131</sup> United States et al., *Report on Hygiene of the United States Army*. 241

<sup>132</sup> Hammond letter July 24, 1873

<sup>133</sup> Ramold, *Baring the Iron Hand*. 318

<sup>134</sup> *Ibid.* 320

impractical try all 103 soldiers who had kept their names on the petition, implying that such a trial would have been desirable, if not warranted.

Bliss had previously served at Fort Stockton, and the trial was held on the back steps of his old quarters, which at the time were vacant.<sup>135</sup> In the wide open landscape surrounding Fort Stockton, the soldiers must have been visible for miles. It was not insignificant that this was a very open and public venue; open proceedings would have sent a message to the other soldiers at the fort, especially those - the majority- who had signed and refused to remove their names. For the soldiers on trial, it also no doubt highlighted their isolation at the fort. We should remember that for Black soldiers in remote West Texas, the army outpost was the oasis of relative security from the Native tribes they were actively fighting, and from hostile white settlers.<sup>136</sup> The spatial arrangement of the fort was such that soldiers in the back yard of an officer's quarters would have had no physical barrier between themselves and this hostile terrain, as they were threatened with dishonorable discharge at best.<sup>137</sup>

The Department of Texas issued Special Orders No. 152 on August 14, 1873, calling for a general court martial to be held at Fort Stockton on August 27. The members of the court were: Major Zenas R. Bliss, 25th Infantry; Major William P. Gould, Pay Department; First Lieutenant Frederick A. Kendall, 25th Infantry; First Lieutenant James Pratt, Jr., 25th Infantry; First Lieutenant Edwin J. Stivers, 25th Infantry; Second Lieutenant Henry P. Ritzius, 25th Infantry. Presiding over the Court as Judge Advocate was Michael S. Courtney, 25th Infantry.<sup>138</sup> Major Gould and Lieutenants Ritzius and Courtney were stationed at Fort Stockton; the remainder of the court was made up of commissioned officers sent by stagecoach from Fort Davis, Texas, the nearest military post, roughly 100 miles

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<sup>135</sup> Bliss and Smith, *Reminiscences*. 469

<sup>136</sup> Dobak and Phillips, *The Black Regulars, 1866-1898*. 86-87

<sup>137</sup> Williams and Wallace, *Texas' Last Frontier*. 144 (map)

<sup>138</sup> SO 152, on file with PP-3542, NARA

away.<sup>139</sup> Assisting the members of the Court was a clerk, who had been sent at to Fort Stockton at Courtney's request for the purpose of this trial.<sup>140</sup>

Proceedings began on August 27, 1873. As was typical procedure, the first order of business was to the accused if any of them objected to anyone's presence on the court. The only one who spoke up was Sergeant Ellis M. Russell: "Lieutenant Ritzius said formerly he would go for me, and he does not like me." Ritzius assured the Court that while he had in the past "spoken of the accused as an inefficient non-commissioned officer," this had not and would not inform his opinion of the case; Russell withdrew his objection.

Every court martial was based on at least one *charge* and one *specification*. A charge was the Army Regulation that the accused had violated, while the specification was the specific manner in which they had done so. In this case, there was one charge, that of "mutinous conduct, to the prejudice of good order and military discipline." There were two specifications, both of which asserted that the accused soldiers had met to discuss, draft, sign, and circulate "an unlawful, unauthorized and mutinous communication" which had criticized a superior officer, and who "did raise a commotion, create discontent, murmurings and disturbance, and were the cause of mutinous language being used by and among the enlisted men of the garrison, against and in opposition to the lawful authority of their superior officers..."; and furthermore that they had refused to withdraw their names from the petition, "stating generally: 'I will not take my name off that paper, (meaning the communication herein before referred to) I prefer to decide the lawfulness of my acts in this case, and take the consequences,' or words to that effect."<sup>141</sup>

The Court began hearing testimonies on the second day of the trial, August 28th. Whatever ideal of objectivity there was, it is readily apparent that Courtney asked many leading questions. The

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<sup>139</sup> McKeever to Bliss, 14 August 1873, LS Dept. Tex, M1114

<sup>140</sup> McKeever to Courtney, 11 August 1873, LS Dept. Tex M1114

<sup>141</sup> Thomas, et. al., Court Martial proceedings, PP-3542 NARA. Unless otherwise noted, all information in this chapter is drawn from the court martial transcript.

first witness was Sergeant Holloman, of Company K. By several accounts, Holloman had played an active role in the meeting, drafting, and signing of the petition letter, but was one of the 25 soldiers to have removed his name after the officers had begun threatening the enlisted men with charges of attempted mutiny. Holloman's actions had therefore put him at a distance from the solidarity the other soldiers espoused.

Holloman began his testimony by outlining how the meeting on July 11th had come to be organized.<sup>142</sup> In his telling, it was John Thomas and Payton Cook who had notified everyone of the meeting that evening. Holloman speaks of the meeting in terms of "they," rather than we, downplaying his own potential role in the trial by omitting any reference to his own actions. He pointed out that Russell had emphasized that the meeting was not private, and that Thomas had been the one to propose going through official channels. "They" met again Sunday evening to read the statement aloud and collect signatures. He recalls, by name, that many of the accused were present at one or both meetings.

A copy of the letter was introduced as evidence and read aloud. Courtney's first question after that was to ask Holloman "Did this meeting create any unusual disturbance among the enlisted men, and if so, what was the nature of the excitement?" Holloman said "It did sir. The men were all generally talking about the Surgeon's treatment of Taylor — all the men were talking that night and for about two days after." According to Holloman, Jacob Lione and "two or three others" said that Cleary "ought to be murdered." Holloman never indicated that he ever said the same himself.

When the "Defence" (at this point in the trial likely one of the accused) asked if the meeting was organized, Courtney objected, stating that it was "not a matter of opinion" whether the meeting was organized, because it had a chairman and appointed committees. The objection was sustained.

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<sup>142</sup> The sequence of events in the preceding section of this paper is drawn primarily from these testimonies, but they are broadly summarized here with an emphasis on who attributed which actions to whom. The purpose of this is to place the testimonies themselves in context and highlight the subjective biases, personal resentments, self-preservation, and otherwise deeply personal aspects of each testimony. This is not to accuse anyone of lying, but to point out how the trial operated within the social world of the fort, and within the strong racial and official hierarchies of the military. Given that the timeline of events has already broadly been summarized, details of testimony will be omitted in favor of those details that refer, especially, to accusations made by a witness against someone else.

Courtney questioned whether the meeting was public and open to officers and citizens along with enlisted men, to which Hollomon stated that it was only open for enlisted men. Courtney asked if the meeting was secret, and Hollomon said it was not. When asked about threats, he said, in spite of previous references to people saying Cleary "ought to be murdered," that no one had made threats against Cleary or any other officer.

The second day of the trial, on August 28, 1873, began with testimony by Abram Beaton. Beaton was a member of Company K alongside John Taylor. Like Holloman, Beaton had initially signed the letter, but had later asked to have his name removed. Courtney asked if he felt unsafe after removing his signature, and Beaton said he had. As Hollomon had, Beaton took the opportunity to specifically mention Sergeant Russell: that Russell had assured everyone at the meeting that it was not a secret meeting, that it was not disrespectful ("no more than the treatment the man received from the Surgeon"), and that no man would be compelled to sign.<sup>143</sup>

Following Beaton was Sgt. Benjamin Mew, also of Company K. Mew, unlike the first two witnesses, had not signed the letter or participated in its drafting. He, like the other witnesses, spoke of Sgt. Russell: it is from Mew's testimony that we hear of Russell hoping that all the men knew what they were signing for. However, when asked whether the meeting caused "a commotion," Mew, unlike the first two witnesses, answered that it had, to the point that he feared for threats against his life. According to Mew, Sgt. Ringold said that anyone who hadn't signed for his comrade deserved to be murdered. The defense asked "isn't 'ought to be murdered' a common expression?" but Mew said he had never heard it. Mew's testimony also states that the men were confident the officers would try to bluff them with spurious charges, believing that the officers would want to avoid forwarding the statement.

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<sup>143</sup> We could assume that this made Russell appear more sympathetic in the eyes of the Court, but it may also be that Beaton wanted to highlight Russell's insubordination, given that they all felt Taylor had been grievously mistreated by Cleary due to personal bias; it is not hard to imagine that Russell was being bitterly ironic when he said that they would respect Cleary no less than Cleary had respected Taylor.

Next, Pvt. John Early of Co. K spoke. He said he had overheard Sgts. Holloman and Ringold making threats against him for not signing, and that he hadn't signed because Sgt. Mew hadn't. When Courtney asked him, as he had asked the other witnesses, whether they were afraid of "personal violence" over the matter, Early pointed the finger at Hollomon, saying that he had overheard Hollomon threatening to kill any soldiers who would create a problem for the petitioners by refusing to sign. Like the others, Early stated that yes, the meeting had caused great commotion, but when pressed, he clarified that he didn't think a majority of soldiers would have committed murder or stood for it. The defense asked if anyone had made any threats to force him or anyone else to sign, and he said no one had.

Ezra Houston, clerk at the Post Trader, testified that he witnessed commotion at mail call the day after the meeting, and that Houston Shelton and Ellis Russell had openly taken credit for writing the letter. George M. Frazer, the butcher, spoke about having spoken with several soldiers and recommending that they remove their names, to which they refused. Henry P. Ritzius, the Post Adjutant, testified that he found the letter on the Francis Dodge's desk.

The last testimony of the day was that of J.S. Tomkins, commander of Company K. Tomkins expressed his relative lack of concern about the soldiers' letter, and said he had done nothing about it for several days because he saw "no harm in it." When he read the same documents to the soldiers that the other officers had read to the men in their companies (the 220th Army Regulation and 7th Article of War)<sup>144</sup>, the men had told him Cleary's treatment of Taylor had been "brutal." They were not defiant when speaking with him, and most men he spoke with took their names off the petition, except Sgt. Russell and Sgt. Wheeler. He had, he said, never asked anyone to remove his name from the petition, only "explained to each man the nature of his offence."

When Courtney asked if Tomkins had witnessed "any unusual knotting and grouping of the men" speaking "in earnest conversation," Tomkins said he had heard commotion in the barracks of

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<sup>144</sup> Both of which defined mutinous conduct and prescribed death as a penalty for mutiny. See previous chapter.

Company K and Company D: "loud and excited conversations could be heard as far as my own quarters, about 200 yards, this together with the reports of other men, confirmed me in my belief that steps should be taken to show the men that they would be held responsible for what they were doing."<sup>145</sup>

At the start of the third day, the prisoners requested counsel in their defense; the request was granted, and Martin B. Hughes, a white Lieutenant of the 9th Cavalry, was appointed. Captain Lemuel Pettee of the 25th Infantry testified for the prosecution, saying that he had spoken with the enlisted officers under his command<sup>146</sup> and, as other officers had, read them the Army Regulations and the Articles of War, along with Benet's definition of mutiny.<sup>147</sup> Cpl. Jacob Lione came to him later and asked to have his name removed, saying he hadn't realized what he'd gotten himself into. John Thomas, on the other hand, refused to remove his name. Courtney asked if they had been disrespectful, and Pettee said they had not, although all "seemed to be acting in concert from some prior agreement" when they spoke to him.

Nathaniel Weaver testified at the start of the fourth day. Weaver was a private in Company K who had not signed the document.<sup>148</sup> Weaver said he had heard Solomon Hollomon and Abram Beaton talk about tying Cleary to the flag pole at the meeting the night of July 11th; Courtney asked what he thought they meant by that, and Weaver said "I suppose it was meant to take his life."

Judge Advocate Courtney asked him if he had heard any other soldiers express a similar sentiment; Weaver said he had only heard those two, and that the others had preferred official channels. Weaver said he saw Hollomon the next day going around the fort with a paper, asking people to sign.

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<sup>145</sup> Other testimony would state that this was around pay day, and no other testimony mentions this level of commotion.

<sup>146</sup> John Thomas, Jefferson Santifer, Ellis Russell, Jacob Lione, and Jacob Richardson

<sup>147</sup> I have not found any references elsewhere to Benet's *Treatise on Military Law*, and it may have been a common book at the time; another way of seeing it is that one officer had suggested the others refer to it.

<sup>148</sup> The original petition letter on microfilm (see: Letters Received, reel 1, M1189) shows that soldiers' names were removed by crossing them out in ink; as such, most of crossed out signatures are now totally illegible. It is possible that Weaver had, in fact signed, but in the absence of a document requesting removal, we can't know for sure.

When Pvt. Allen Crawford, Company F, testified next, he went further than Weaver in pointing the finger at Hollomon: he had heard Hollomon saying that they should kill Cleary, "cut off his cock," and tie him to the flag pole. But when asked about commotion, Crawford said there had been no shouting or excitement at the meeting, and that no one had agreed with Hollomon's suggestion.

By the time F.S. Dodge testified, his telling of events had already more or less been established by the other officers who testified: like the others, became concerned about the enlisted men's behavior, and read Army Regulations and Articles of War that implied their actions had been mutinous, with a potential punishment of death. The defense counsel asked Dodge if he had presented the soldiers with any alternatives for seeking redress; Dodge said he promised them it would be handled by the Commanding Officer. Dodge framed his actions as an offer to allow the soldiers to remove their names, rather than to compel them. In his telling, he wanted them to know that removing their names would not invalidate their complaints, and that they would be taken seriously. He implied that soldiers refused to remove their names only because they hadn't understood this.

Like Tomkins, Dodge said he saw "considerable excitement" among the enlisted men, with more of them talking in little groups amongst themselves.<sup>149</sup> He initially had thought it was just "bad whiskey" drunk at payday; he gave them several days to "get over" the excitement of the case.

Courtney then asked if there was or appeared to be "a unity of action or combination among the Non-Commissioned Officers of your Company, who are arraigned here, to stick by one another in the course they had adopted, in opposition to your advice and orders, no matter the result or emergence might be?"

Dodge replied that the enlisted men, he said, seemed organized, with a "unity of action" in their refusal to "follow my advice." He took note of any incidents of enlisted men showing "attitude" towards Cleary, in words or actions. Given all of this, said Dodge, he didn't think a petition alone would be enough to satisfy them, and that things would continue to escalate to violence.

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<sup>149</sup> One way of seeing this is that they appeared more independent than before.



The final testimony of the fourth day was Jose Maria Bill, who served as a guide and occasional laborer at the fort. Bill, speaking through an interpreter,<sup>150</sup> To the great frustration of Judge Advocate Courtney, Bill's only testimony was to state that he had asked a Black soldier why there were sergeants in the guard house, and that the soldier had said that "Captain Dodge had put them in because they said the Doctor had killed a man." The transcript of the trial reads: "The Judge Advocate here stated that the witness had failed to testify to facts which he (the witness) had formerly related to him," and with the officers all having duties to attend to, they ended the trial for the day.

The fifth day began with testimony from Robert Jones, Company F. Jones stated that he signed the petition without talking to anyone at the meeting, and later had his name removed. Jones' testimony was much as the other enlisted witnesses for the defense: that this had been an organized meeting, and that he had feared for his safety after having his name removed. The defense asked if he had gone to this meeting with the permission of his commanding officer, to which Jones replied "I always do ask permission to leave the yard to go any where." Courtney asked him who had given him permission to attend the meeting; Jones stated that he was an Orderly for the Paymaster, and that he considered the Paymaster, Maj. Gould, to be his commanding officer.

The final witness for the prosecution was Judge Advocate Courtney himself. Courtney, like the other officers, had spoken to the non-commissioned officers under his command, read the same documents as the others, and asked if they would remove their names. He made special note of Pvt. Cook and "the disrespectful and stubborn manner in which he conducted himself in his answer to my questions, and in his general defiant deportment." He noted how Pvt. Johnson made a point of telling him that he would accept the consequences of a Court Martial.

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<sup>150</sup> Patrick Scott, chief clerk at the Post Trader, who would testify for the defense on the eighth day of the trial. It is worth noting that Scott appears to have been one of the few people at the fort who could speak Spanish.

One notable point about Courtney's testimony is when asked why he thought there would be an outbreak of violence, he referred to "the fact of three cases of mutiny being already on record against colored troops."<sup>151</sup>

Courtney explained the rationale behind asking soldiers to remove their names from the petition: "It was my belief that not a tenth of the signers of the communication apprehended what they signed or [*illeg.*] cared anything about it, but being led, as they apparently were by the Non Commissioned Officers, who are supposed to be their superiors in intelligence, that like most ignorant crowds and mobs they would follow leaders with-out knowing why, and commit any act or crime the excitement of the moment, backed by the majority and not retarded by the few, might suggest — and that getting their names from the paper would make a division among them so that they would not be able to collect a sufficient number to oppose those who thought at least they were doing right in not signing."

The prosecution closed. M.B. Hughes, speaking as counsel for the defense, said that the accused had given him the names of 20 witnesses, and that he needed time to decide which to call on. The following day, the defense made their case. The dynamic of the case changes dramatically from this point, with Judge Advocate Courtney taking a stridently oppositional position, objecting to some aspect of every defense witness' testimony.

This began with the first witness for the defense, Captain J.S. Tomkins, 25th Infantry. Hughes asked about the "general deportment" of the accused soldiers in Tomkins' company, and Tomkins said that it was good until he confronted them about the petition. Hughes followed that by asking what Tomkins' initial opinion was of the petition, but Courtney objected: "“the opinion of the witness as to

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<sup>151</sup> I have not been able to find all three incidents referred to, but no doubt one of them is the mutiny at San Pedro Springs, in which a group of Black Regulars stormed killed several officers after acts of brutal violence and lynching had been perpetrated by their commanding officer against several members of the garrison. See: Schubert, *Voices of the Buffalo Soldier*. 31-32

the guilt or innocence of the prisoners, expressed by him prior or after their arraignment, I consider as irrelevant. It is for the Court to judge."

Courtney argued that opinions were insufficient as evidence, but Hughes countered that he intended to show that the initial opinion among the commissioned officers was that "the men were perfectly right in signing the petition, that this opinion existed until after they had read the Articles of War and the Regulations, this being shows, the inference would be that Enlisted Men who have not had the same privileges, of learning what is right or wrong in such cases, would be more apt to err in judgement.."

The court discussed this, and overruled Courtney's objection. Tomkins said that his initial reaction was that they had done nothing wrong, but this changed "within a few hours." When asked what had changed his mind, he said that it was because he had read the Army Regulation, and that "if men were allowed to call in question the actions of their superior officers, under any pretence whatever, there would soon be an end to discipline."

Tomkins told the court that Sgt. Jefferson Walker had approached him 15 minutes after everyone was arrested, and asked on behalf of all the prisoners to have their names removed from the petition and to be released, because it was not fair that they alone should be punished for something everyone had done. Walker had said he was sorry for his actions, but only he approached Tomkins in this manner.

That afternoon, Captain F.S. Dodge testified for the defense. When asked, as Tomkins was, about the conduct of the men under his command, he said that "most" had been good; he went on to name everyone except Houston Shelton. Shelton, he explained, had previously been tried for drunkenness.<sup>152</sup> When Hughes asked if drunkenness counted against a man's character, Courtney objected. "For the party introducing a witness on his behalf and then on finding that he does not testify as he expected, to attempt to discredit his own witness by the witnesses own testimony, or even by that

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<sup>152</sup> I was not able to locate this case in the records of the National Archives

of others, is without precedent."<sup>153</sup> Hughes countered that it was reasonable to ask the question, because Dodge had so pointedly omitted Shelton's name when listing soldiers of good character.

The objection was not sustained. When asked why, exactly, he did not hold Shelton in esteem, Dodge said that it was nothing specific Shelton had done, but that over the past two years of service he had come to dislike him, and held him "in little confidence."

Next appeared William H. Harrison, clerk at the Post Trader in Fort Stockton. Hughes tried to ask Harrison if he had seen or heard anything that suggested mutiny or general disobedience from the enlisted men over the past two months; Courtney once again objected. Courtney stated that the officers had already given their opinions on the matter, and that they said there had been disobedience and that "they would not have been surprised" at a mutiny. If Harrison were to say otherwise, said Courtney, it would discredit the officers who had already given their testimonies. Courtney once again cited Benet's legal treatise in support of his argument, stating that if Hughes had wanted to discredit officers' testimonies, he should have done so in cross-examination.

Hughes simply said "'I leave the question for the decision of the Court on its merits.'" The objection was sustained. Courtney read to Harrison the names of all the previous witnesses, and Harrison said "I have heard nothing on the part of any enlisted man, of a tendency or anything tending to a disturbance or mutiny, or of any apprehension on the part of any officer of a mutiny."

Courtney pressed Harrison in cross-examination, asking if he could have possibly been paying close enough attention to know if any officers had anticipated mutiny. Harrison said that he had heard no one expressing any concerns about mutiny, and that if he had, "I think I would remember it."

The final witness for the defense, on the eighth day of the trial, was Patrick Scott, chief clerk at the Post Trader. Scott said that he spoke with enlisted men on a daily basis as post trader, and had done

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<sup>153</sup> Courtney went so far as to read a passage from Benet's *Treatise on Military Law*, pages 286-287, which deal with reasons that a witness may be rejected; in my copy of Benet, pages 286-287 deal with religious affiliation, stating that atheists cannot serve as witnesses because their lack of belief in God means they cannot be held to any oaths of truth(!). Courtney presumably had a different edition.

so since arriving seven months earlier. When Hughes asked him if he had ever heard anything suggestive of mutiny or violent outbreak,<sup>154</sup> Scott said he never had, "in any manner."

In cross-examination, Courtney asked him "You say you have had great opportunity of hearing conversations among the men; were not these opportunities confined to such men as visited the Store, during the day, and is it at all probable that they would confide to you their intentions, if they had such, of committing a crime against a constituted authority, of which, in a measure, you are a part, and in the continuance of which authority in power, it is, and was to your interest, as well as that of your employer?"

Hughes objected that the question was potentially misleading because it suggested to Scott that he was a "constituted authority," and besides that, was overly long and buried its main point. Courtney attempted to argue that previous testimony showed how soldiers had inadvertently expressed intentions to commit crimes, and that as an authority they would never have admitted such intentions to an authority like Scott. The objection was sustained.

Courtney then attempted to recall F.S. Dodge as a witness in order to ask him if he had initially approved of the soldiers' actions, as Tomkins had, or if he had objected to it. As soon as he asked the question, Hughes objected. The prosecution had rested, he said, and could not introduce new witnesses at this point just to counter something a defense witness had said. Courtney argued that Tomkins' testimony might imply that all the commissioned officers had initially reacted as he did, which was not the case. "Had the Counsel simply confined the argument to Captain Tomkins individual opinion, no danger as to what was intended might be apprehended," but he argued, Hughes had phrased his question in a way that was intended to be misleading, which was enough to get the whole case thrown

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<sup>154</sup> It is worth noting that Courtney did not object to this question, as he had to a similar one asked a day earlier.

out.<sup>155</sup> The objection was sustained, and the prisoners requested until the following day to prepare their final defense.

The following morning, Houston Shelton announced for the court that "Our Counsel is absent with our consent, his presence being no longer required by us." The prisoners introduced a written statement in their defense. It begins: "We would most respectfully state to the Court that in signing the paper referred to in the Specifications, we were prompted solely by an earnest desire to secure what we believed to be our just rights."

The statement goes on to say that because the men were from all three companies, they considered the Post Commander to be their collective, immediate superior officer. No one had shown any evidence of mutinous or seditious intentions: "when asked and advised to use evidence towards Doctor Cleary by Non-Commissioned Officers of great influence among the men (Sergeants Beaton & Hollomon) we promptly said 'no!' let us forward a Complaint through the proper channel, or words to that effect."

Their refusal to remove their names from the letter, according to the soldiers' statement, stemmed from a concern that doing so would be seen as tacit acknowledgement that their statements were false; furthermore, Cleary was noticeably angry about the incident, and they were concerned about some form of retribution from him.

The letter concludes by stating that "if any improper language is made use of, it is caused by our want of Education and proverbial inability to speak or write the English language properly. We would state also that the men who was selected to draw off the paper are about the only enlisted men at the post that can write. In conclusion we would ask the Court if they find we have erred, to take in

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<sup>155</sup> For precedent, Courtney cited "Holt, Page 206." I have not been able to determine what this refers to. "Holt" undoubtedly refers to Joseph Holt, Judge Advocate of the Army. Holt sometimes issued opinions in extraordinary military cases. There are a number of published volumes of these opinions, but none refers to anything resembling what Courtney cites on page 206. I also consulted Holt's personal papers at the Library of Congress, as well as his unpublished opinions at the National Archives, and found nothing that appeared to be relevant.

consideration the fact that we have had no advantages of Education which would enable us to properly, at all times, to interpret the true meaning of Regulations and Articles of war."

Judge Advocate Courtney said nothing in response. The court was closed for deliberation.

On September 5th, the sentence was declared. The charge and specification were read again, but where before it had referred to the meeting as "mutinous," the specification now read that "they did, in concert with other enlisted men... originate, organize, and join in an *unauthorized* meeting."<sup>156</sup> The prisoners were found guilty.

The other commissioned officers on the Court submitted a statement to M.L. Courtney "in consideration of the effort" Jefferson Walker had made to remove his name from the petition, and asking that he be treated favorably.

On October 4th, 1873, the Department of Texas issued General Court Martial Order No. 152, which summarized the findings of the case, and issued the prisoners' sentences. All 21 were to be dishonorably discharged and forfeit all pay. George Roberts, Houston Shelton, John Thomas, Jefferson Santifer, Ellis M. Russell, Jacob Lione, Jacob Richardson, Payton Cook, George Ringold, and Henry J. Johnson were sentenced to prison at Huntsville, Texas. The other soldiers were given a sentence of one year.

Jefferson Walker, however, was released on the recommendation of the court for "his acknowledgement of his wrong and expression of sorrow for the part he had taken in the affair."

Chauncey McKeever, Assistant Adjutant General for the Department of Texas, wrote in his opinion that even if the petition was not mutiny, it was "the next thing to it," and was "calculated" to incite violence. It had been the duty of the enlisted officers to maintain order, but 129 soldiers had taken part in this petition. He conceded that they may not have intended violence at the initial meeting, but "the better intentions of the few are no guarantee for the conduct of the many... in defiance of authority *per se*."

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<sup>156</sup> Emphasis mine

## Life After Fort Stockton

Even after the conclusion of the trial, Ritzius, the Post Adjutant, was still requesting statements from the other commissioned officers on Cleary's conduct. In a letter from October 15th, Francis Dodge wrote to say that he never knew of any complaints being made against Peter Cleary during his time at the post. Dodge felt that the soldiers had resented Cleary because he would send them back to duty before they thought they were ready. He mentioned two cases, one in which a man had shot himself through the boot, and another of a man with rheumatism. Both were sent back to duty before they thought they had fully recovered. "I do not intend to criticize Dr. Cleary's action in either [case], but I think that their complaints arose from a sense that Cleary does not care about their wellbeing or want to aid them."<sup>157</sup>

M.L. Courtney replied to Ritzius with a report on "the truth of the accusations" against Cleary. That petition, Courtney said, was the first and only complaint against Cleary by an enlisted soldier. He had never heard of any poor treatment, even though he would have taken any complaint seriously. When General Schneider came to Fort Stockton for an inspection in April, 1873, no one took the opportunity to voice any complaints about Cleary.<sup>158</sup>

On October 18th, E.G. Bush, forwarded several statements about Cleary to the McKeever, the Assistant Adjutant General of the Department of Texas. He included letters from all the top commissioned officers at the fort, including Captain Dodge's letter from July 18th and Peter Cleary's letter from July 15th, along with an affidavit by the hospital steward.<sup>159</sup> Like Dodge, Bush said he never knew that Cleary had told soldiers to rub themselves with stones or adobe bricks; but he still never knew Cleary to treat anyone poorly, if he thought they were truly sick.<sup>160</sup>

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<sup>157</sup> Dodge to Post Adj, Fort Stockton, 15 October 1873, LR Dept. Tex

<sup>158</sup> Courtney to Post Adj., Fort Stockton, 16 October 1873, LR Dept. Tex

<sup>159</sup> To date, I have been unable to find that statement.

<sup>160</sup> Bush to McKeever, 18 Oct, 1873, LR Dept. Tex.



The now-convicted prisoners of the "mutiny" trial had served 6 months of hard labor at Huntsville when, on April 27th, 1874, their sentences were remitted. C.J. Smory, the Judge Advocate of the Department of Texas, wrote in his order that their trial had been fair and that the "demands of discipline" had been met, but given the circumstances surrounding the case, further punishment was not "necessary or desirable."<sup>161</sup> The order was issued the following day, and the (former) soldiers were finally released on May 15th.<sup>162</sup>

From here, the narrative becomes fragmented. The events surrounding Taylor's death, and the trial that followed, must have certainly had lasting impact on the lives of everyone involved; not in the least because twenty people saw their military careers come to an abrupt end with a dishonorable discharge. For most soldiers, I was unable to find any record of their lives outside the military. A variety of sources offer scattered clues and hints. In some cases, people have been located in city directories, in literature, and in one case, even in a WPA slave narrative. The most valuable resources are the pension records housed at the National Archives in Washington, D.C. Some soldiers, or their families or widows, applied for veterans' pensions, which typically collected written or oral statements from friends, family, doctors, and other people who knew the soldier.

The picture that emerges from all these documents is of bonds of fraternity that sometimes persisted well beyond military service. Together, all of these soldiers' lives hint at the possibility for military service to have fostered group identity, whether as soldiers or as Black men. Individually, we're able to trace the lives of soldiers from slavery, through military service, and examine how this case could have fostered - or hindered - a sense of brotherhood and belonging.

Some soldiers remained in the military for long, or short, careers. Benjamin Mew, witness for the prosecution, died of tetanus only a year after the end of the mutiny trial.<sup>163</sup> Jacob Richardson, one

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<sup>161</sup> Smory to Asst. Adj. Gen., Dept. Tex, 27 April 1874, LR Dept. Tex. 1636

<sup>162</sup> Texas Convict and Conduct Registers, 1874

<sup>163</sup> Bimonthly Returns and Inventories, Effects of Deceased Soldiers, NARA

of the soldiers to have removed his name from the petition, rose through the ranks to Sergeant Major in the 24th Infantry, but died at Fort Stockton in 1889 at the age of 40.<sup>164</sup>

Solomon Hollomon, first witness for the prosecution, went on to serve a long and distinguished career in the military, eventually earning the rank of First Sergeant in the 9th Cavalry. In 1892, like his comrades had nearly two decades earlier, Hollomon and Charles Dowd, another officer in Company A, 9th Cavalry, held a meeting after the death of a fellow soldier, Sergeant Israel Valentine at Fort Robinson, Nebraska. Just as the soldiers had done with Taylor, Hollomon and Dowd sent in a memorial letter to the *Army and Navy Journal* and several other newspaper. In their letter, they resolve to express their appreciation for their comrade.<sup>165</sup> In January 1893, Hollomon, then age 41, married Ida Bodie, age 17 at Fort Robinson. Four years later, they had a daughter named Ida Rebecca, but she died tragically at the age of 16 months of bronchitis and pneumonia. By 1898, Hollomon was in Seboney, Cuba, where he contracted yellow fever and was transferred to Fortress Monroe, Virginia.<sup>166</sup>

Shortly after his release from Huntsville Prison in 1873, Ellis M. Russell, the man who had drafted the petition letter along with Houston Shelton<sup>167</sup>, made his way to Galveston. At the time, Galveston was the fastest-growing city in Texas, "the New York of Texas," with plenty of opportunities for a young man looking for work. Russell worked the cotton fields and on the docks as a longshoreman. He worked for the postal service (the first Black postman in Galveston, by his own account). He became a police officer, a customs inspector, and an insurance agent.<sup>168</sup>

By the 1880s, he had clearly distinguished himself in his community. He knew and worked closely with Norris Wright Cuney, the great Black political leader of Texas. Cuney had been instrumental in organizing unions for the Black labor force on the docks, often working in opposition to the white screwman's unions to advocate for equal pay and opportunities. Some documents indicate

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<sup>164</sup> Schubert, *On the Trail of the Buffalo Soldier*. 244

<sup>165</sup> *Army and Navy Journal*, 2 July 1892, v. 29. 782

<sup>166</sup> .Nebraska Marriage Records. Schubert and Schubert, *On the Trail of the Buffalo Soldier II*. 137.

<sup>167</sup> About whom I have unfortunately been able to find no information after 1873.

<sup>168</sup> McComb, *Galveston*. 64-67. Carrabel Russell vs. Theodore Russell, TX Sup Court. *Official Register of the United States*, 1891. 169.

that Russell as an assistant to Cuney, and his name shows up in official documents alongside Cuney's. Both men were also Freemasons. In fact, as a fellow Mason, Russell had the great honor of being a pallbearer at Cuney's funeral in 1898, an event attended by thousands who gathered to mourn a titanic force in Black politics of the day. Later in life, Russell would continue to work closely with N.W. Cuney's son Joseph.<sup>169</sup>

Russell's and Cuney's status as Freemasons was not incidental, and it was not only a matter of community status. Black Freemasonry was intensely political, seen in the 19th and early 20th centuries as a means for advancing the Black race as a whole, and Black men individually.<sup>170</sup> Prince Hall lodges, named for an influential Black intellectual and Mason of the 18th century, could be found across the country. The relationship between Prince Hall lodges and the white mainstream was often fraught. By the late 19th century, many state lodges held conflicting views of Black Freemasonry; the Masons of Washington state were accepting of Black Masons, but Masons in Texas were not. In fact, when the Grand Lodge of Washington (state) formally announced that they would accept the coexistence of Prince Hall Lodges, the Grand Lodge of Texas went so far as to issue a formal denouncement, declaring that Black Masons were unfit for membership, and an insult to the traditions of Masonry.

Yet the Prince Hall lodge remained in Texas, and it was to this that Russell and Cuney were members. I was not able to locate Masonic records for this period and location, but it is clear that Russell was an esteemed member of the community. His name appears in several newspaper articles about important events, including the visit of an influential Black intellectual.<sup>171</sup> Russell was also a ranking member in the Knights of Pythias, a sister organization to Masonry, taking on duties as a member of the Queen City Lodge of Galveston.<sup>172</sup>

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<sup>169</sup> Cuney-Hare, Norris Wright Cuney. 224. Russell also sold Cuney-Hare's book, and his name appears frequently in ads for it in the *Galveston Daily News*. Joseph Cuney would serve as the family lawyer for decades.

<sup>170</sup> Kantrowitz, "Brotherhood Denied: Black Freemasonry and the Limits of Reconstruction." 96.

<sup>171</sup> *Galveston Daily News*. 11 December 1894.

<sup>172</sup> *The City Times*, 20 June 1914.

As his standing and reputation grew, so did his family. He married Livinia Coleman in the 1890s, and they had their first children soon after. His children's names hint at Russell's personality and politics. In the 1900 census, Russell is listed with four children, daughters Rivian and Garnet, and sons Toussaint L. and Louverture; whose names were an obvious reference to Toussaint Louverture, the great leader of the Haitian Revolution. As a successful revolutionary, Louverture had been an inspiring figure in Black politics ever since the nation had won its independence. Russell naming his sons after Toussaint Louverture speaks volumes about his politics and his racial consciousness.<sup>173</sup>

His status as a Mason and a Knight of Pythias remained of great importance to him, which became clear after things soured between him and the Grand Lodge of Texas. In 1909, Russell's name was published in the *Masonic Quarterly*, publicly announcing that he was delinquent with his membership dues. Russell responded by filing a suit in the Galveston District Court, asserting that his dues had not been delinquent, and seeking compensation for the damage that the false accusation had done to his standing in the community. The two parties eventually reached a settlement, but the fact that he would go to such lengths demonstrates how important his dignity and standing in the community were to him.<sup>174</sup>

In the mid-30s, Russell's son Theodore (born Toussaint) and his wife Carrabel were divorced. Claiming an entitlement to half of Theodore Russell's assets, Carrabel Russell sued for ownership of half of Theodore's house. The problem was that Ellis Russell was still living there. He had lived there since buying it in 1892, and sold it to his son years later with the agreement that he be allowed to live there for the rest of his life. Carrabel Russell's suit turned into a bitter and length battle that made its way from the District Court to the Appellate Court, and finally to the Texas Supreme Court. It does, however, offer a glimpse into Ellis Russell's later life, and a glimpse at his personality. When asked what he did for work in his youth, Russell listed a number of different jobs. The lawyer said "a little of

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<sup>173</sup> U.S. Federal Census, 1900. Bethel, *The Roots of African-American Identity*. 166. Litwack, *Been in the Storm so Long*. 494

<sup>174</sup> E.M. Russell vs. Grand Lodge Free and Accepted Masons.

everything?" to which Russell replied "A little of everything. I haven't been a bandit" and laughed.

Having divorced his wife some years earlier, Russell said he lived alone in the attic of his house, ate his meals alone, and spent most of his time alone.<sup>175</sup>

A lifelong friend of Russell's was George Ringold, whom he had met at Fort Stockton. The two men had stood trial together, gone to prison together, and both lived out their lives in Galveston. They lived in different neighborhoods, but Russell visited him almost every week until Ringold's death in 1922.<sup>176</sup> The connection they formed as soldiers and comrades, and their shared experience through the mutiny trial, cemented bonds of friendship and brotherhood, and suggest that similar connections may have been formed elsewhere.

Ellis Russell died in 1938.<sup>177</sup> I could find no obituary, but many years later, in 1965, his son Louverture spoke at length about him in the *Galveston Daily News*. In an article titled "Russell Considers Himself Luckier than Most Men," Louverture Russell spoke fondly of his father's intelligence and drive for education: "I got a few spanks for not wanting to attend school. Then, after I got into high school, I began to realize what an education could mean." He described his father as an avid reader, constantly reading, often perusing an unabridged dictionary; when they were old enough, Ellis Russell asked Louverture and his brother to learn one new word a day from the dictionary. Louverture Russell characterized his father by his "thirst for learning and his pleasure in reading."<sup>178</sup>

Information about the lives of other soldiers is scarce, but here and there we see hints about their lives. Take, for example, Erias Britton, born in Fayette County, Kentucky in 1851. He enlisted in the 9th Cavalry, Company D, on January 1st, 1872, in the city of Lexington, Kentucky. His occupation at enlistment was listed as "laborer," meaning he was probably an itinerant worker.<sup>179</sup> He went to Fort Stockton along with the rest of Company D, in 1872. After Taylor's death, Britton was one of the 129

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<sup>175</sup> Carrabel Russell v. Theodore Lee Russell, TX Supreme Court

<sup>176</sup> Ringold pension, NARA. An affidavit from Russell states that he and Ringold had been friends for 45 years, and that he visited Ringold often when he was bedridden.

<sup>177</sup> Ellis Merriman Russell, Texas Death Certificates 28 January 1873

<sup>178</sup> *Galveston Daily News*, 18 April 1965

<sup>179</sup> U.S. Register of Enlistments.

to sign the petition, and did not have his name removed. He signed, like most others, with an X. He was evidently tried by court martial sometime later in his career<sup>180</sup>, but was not discharged until his term of service expired in 1877, at Fort Concho, Texas, a Private. Fifty years later, Britton's name appeared in a list of "Pensioned Indian War Veterans Now Residing in the State of Kansas" in *Winners of the West*, an activist paper advocating for support of veterans of the Indian Wars.<sup>181</sup>

As soldiers aged, publications like *Winners of the West* offered an opportunity for soldiers to connect over their shared experiences as veterans. 40 and 50 years after their service, former soldiers claimed membership in various "Camps" of the National Indian Wars Veterans Association in order to further advocate on behalf of themselves and their fellow veterans. As a social space, it also offered an opportunity for Black and white men to serve as equals. At least one soldier from Fort Stockton appears to have been active in one of these camps.<sup>182</sup>

Another Kentucky native was Benjamin Ratliff, born sometime around 1849 in Princeton, Kentucky. Ratliff of Company F, 25th Infantry, had not signed the petition, and served out the remainder of his enlistment, discharged at Fort Stockton in 1875. A section of every issue of *Winners of the West* was called "Taps," and printed names of and sometimes brief memorials for recently deceased veterans. When Benjamin Ratliff died, his name appeared in "Taps" along with a brief message: "Winners of the West Camp No. 11, St. Joseph, Mo mourn his loss, as he was a beloved and faithful comrade and member."<sup>183</sup>

## Discussion and Conclusions

The goal in sharing all of these memorials, life histories, and other tidbits about soldiers' lives isn't to present a single body of evidence pointing at universals: it is not my goal to imply that every

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<sup>180</sup> Court Martial file PP-4859

<sup>181</sup> *Winners of the West*, 30 July 1929, 6

<sup>182</sup> U.S. Register of Enlistments

<sup>183</sup> *Ibid.* *Winners of the West*, 30 May 1930, 6

soldier identified with his military service for the rest of his life. Not every soldier was as politically active as Ellis Russell was, and not every soldier had the military career that Solomon Hollomon had. Instead, I want to emphasize that each of these soldiers entered the military with a unique life and perspective, and left the military with his own personal path that was unique in its own ways, as well. And yet there were shared experiences and common grounds between many of them, as well. Their individuality was at odds with a national military and social climate that classed individuals according to intersections of race, ethnicity, class, and other personal attributes that could deny or elevate their personhood.<sup>184</sup> For the soldiers who signed that petition letter, their commonalities, their race, their experiences, were what brought these individuals together to collectively address a common problem.

The majority of these soldiers were born into enslavement. A major feature of slavery was the denial of control over a person's body and dignity, and control over their labor.<sup>185</sup> Black bodies were commonly compared to those of animals, and Black intelligence was as well.<sup>186</sup> It is not insignificant that Taylor was denied his dignity through mandatory labor. By forcing Taylor to work in spite of medical complaints, Cleary was denying Taylor's bodily autonomy and subjecting him, as under slavery, to white authority. When Dodge wrote that Black soldiers were "very incompetent judges,"<sup>187</sup> he was stating plainly the implicit assumption behind all of the doctor-patient relationships at the fort: that the Black man had no real authority over his own body, and was not competent enough even to understand his own health.

Even as common as this kind of racism was, Cleary's racism is especially evident in the documentary record. His sarcastic instructions to bathe with stones and adobe illustrate how convinced he was of his own authority, and how little stock he placed in the statements of his patients. His later career points further towards a habit of dehumanizing his nonwhite patients: in 1891, Cleary was

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<sup>184</sup> Omi and Winant, *Racial Formation in the United States*. 83

<sup>185</sup> Young, *Antebellum Black Activists*. 74

<sup>186</sup> Humphreys, *Intensely Human*. 20

<sup>187</sup> Dodge to Asst. Adj. Gen, Jul. 18, 1873, NARA M1189

assigned to Mount Vernon Barracks, Alabama, where a deadly epidemic of tuberculosis was sweeping through the population of Apaches there; Cleary took little action, and remarked that "when they are thoroughly acclimated, those left of them will be healthy."<sup>188</sup>

It is no surprise, then, that Taylor's death served as a catalyst for political action. So many soldiers signed the petition despite saying they had no personal complaint with Cleary, because this was not only an issue of one soldier's death, but a matter of asserting autonomy and agency in the face of egregious denial of personhood by racist authorities. Black soldiers often saw military service as an opportunity for supporting other Black men.<sup>189</sup> This goal for agency and autonomy was at odds with military leadership, which sought discipline as a highest principle; and indeed, there was a great deal of tension between officers and soldiers who felt infantilized by their treatment.<sup>190</sup> Discipline and authority were both interlinked, so that the conflict between the petitioners and the commissioned officers was twofold, concerning both their bodies and their fundamental dignity.

Another way that personhood was denied under slavery was the denial of education. Slaves and slaveowners recognized the power that literacy could bring, and education was in many cases forced underground, with slaves teaching each other to read in secret.<sup>191</sup> With freedom came a strong desire to take advantage of an education, and the military was one place where this could be accomplished. Fort Stockton did not have a library, and soldiers stationed there were not given an opportunity to form an education, but it is clear that the literate soldiers were willing and able to share their knowledge for the benefit of all. When Russell and Shelton wrote that they had taken on the responsibility as some of the few literate soldiers, it spoke to their sense of responsibility as educated men.<sup>192</sup> Russell's lifelong devotion to reading was therefore not only a matter of personal pleasure, but had stemmed from his early life in antebellum America.

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<sup>188</sup> Gillett, *The Army Medical Department 1865-1917*. 82

<sup>189</sup> Bethel, *The Roots of African-American Identity*. 185

<sup>190</sup> Ramold, *Baring the Iron Hand*. 70

<sup>191</sup> Williams, *Self-Taught*. 18

<sup>192</sup> Exhibit "A", Court martial proceedings PP-3542



There is a lingering question over how John Taylor actually did die. The little information that we do have about Taylor's body is limited to Cleary's recollection of his post-mortem. I spoke with Dr. Philip Mackowiak, MD of the Historical Clinicopathological Conference, who suggested that the granulomas on Taylor's spleen (what Cleary referred to as "studded with tubercles") were indicative of the dissemination of a limited number of deadly organisms, most likely that Taylor had survived tuberculosis. Taylor's symptoms may have suggested a fungal infection known as coccidioidomycosis. Dr. Mackowiak explained that the coccidioides fungus is especially prevalent in the high desert environment of the high Sonoran plains, and people of African descent are especially susceptible. Even today, there is no treatment for the condition, and it still affects Black soldiers in this region. An epidemic typically occurs when a year of dry weather follows a year of wet weather. I looked at historic weather data from Fort Stockton, but the previous year did not appear to have been wetter than usual.<sup>193</sup> Judging by medical records, there does not seem to have been an outbreak, but the possibility remains that this is, indeed, what Taylor died of. In the absence of any detailed medical records for Taylor, it may be impossible to ever determine his true cause of death.

It is possible that the "nostalgia" Taylor describing could have been something akin to post-traumatic stress. If Taylor had served in the Civil War, he had done so as a young man. Postwar accounts speak of troubling and confusing behavior by war veterans, not fully understood at the time as psychological trauma.<sup>194</sup> Could this possibly account for Taylor's "thrashing about all night" in his cell at the guard house?<sup>195</sup> Ultimately, whether Cleary was right or wrong in a given diagnosis is less important than the antagonistic relationship that existed between him and the soldiers under his care. The testimonies and correspondence that speak about Cleary show that there was a real sense of resentment towards him, which even Dodge reluctantly acknowledged.

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<sup>193</sup> Fort Stockton in MRCC FORTS data

<sup>194</sup> Waller, *Health and Wellness in 19th-Century America*. 217

<sup>195</sup> Thomas, et al to AG, Dept Tex. 12 July 1873, LR Dept Tex M1189

The apparent disagreement between the commissioned officers speaks to difficulty in projecting an air of unanimous authority. Public disagreements among authority figures make them appear weaker and less powerful. This may have been why Courtney so forcefully rejected any attempts at calling into question prior testimony given by officers, because it was necessary that they appeared unanimous in their opinions and actions.<sup>196</sup>

Above all, we should acknowledge the agency of the soldiers who participated in this act of petitioning. In the retelling, this story can very easily seem like only one of many interesting incidents that occurred at Fort Stockton in the 19th century. Briefly summarized, this story can fit any agenda, so that one author may remark on the bravery of the soldiers, and another may remark on the deftness with which the commissioned officers handled the situation.<sup>197</sup> For the officers themselves, this may have had no greater significance than any other problem of discipline; many years later, Zenas Bliss wrote of the incident in his memoirs, greatly exaggerating and embellishing the incident.<sup>198</sup>

It is only on close inspection that we see the true significance of this moment, not only for the people involved, but as an encapsulation of the political and racial climate of the Reconstruction-era frontier Army. There is no doubt that this was a defining moment in the lives of some of the soldiers, who persisted despite knowing that they could face a death penalty for their actions. We must therefore infer that the stakes were high enough to warrant that much of a risk to their lives and livelihoods. This was not only about securing justice for John Taylor, or even about punishing Peter Cleary for a pattern of crude behavior. This was an opportunity for the soldiers to assert their rights and take a firm stand.

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<sup>196</sup> Scott, *Domination and the Arts of Resistance*. 54-58

<sup>197</sup> Cf. Williams and Wallace, *Texas' Last Frontier*. Williams praises the officers for their expert handling of the situation, apparently taking them at their word that this was no more than a problem of discipline and order.

<sup>198</sup> Bliss and Smith, *Reminiscences*. 468-469. Bliss, for example, triples the number of soldiers tried by court martial.

**Appendix A****Soldiers tried by General Court Martial Order 62 at Fort Stockton, Texas**

First Sergeant George Roberts, Company D, 9th Cavalry

Sergeant John R. Jones, Company D, 9th Cavalry

Sergeant Thomas Lee, Company D, 9th Cavalry

Sergeant Isaac Lewis, Company D, 9th Cavalry

Sergeant Absalom Ely, Company D, 9th Cavalry

Corporal Daniel Landron, Company D, 9th Cavalry

Corporal John Jonhson, Company D, 9th Cavalry

Corporal Edward Gaston, Company D, 9th Cavalry

Private Houston Shelton, Company D, 9th Cavalry

First Sergeant John Thomas, Company F, 25th Infantry

Sergeant Jefferson Santifer, Company F, 25th Infantry

Sergeant Ellis M. Russell, Company F, 25th Infantry

Corporal Jacob Lione, Company F, 25th Infantry

Corporal Jacob Richardson, Company F, 25th Infantry

Private Payton Cook, Company F, 25th Infantry

Sergeant Jefferson Walker, Company K, 25th Infantry

Corporal Barney Hiter, Company L, 25th Infantry

Corporal John Lee, Company K, 25th Infantry

Private George Ringold, Company K, 25th Infantry

Private Henry J. Johnson, Company K, 25th Infantry

Private John H. Wheeler, Company K, 25th Infantry

## Appendix B

### List of all soldiers whose names appear on the July 12th, 1873 petition letter

The following is a list of all soldiers whose name appeared on the petition as it was presented during the trial (and as it appears in the original microfilmed correspondence). This was after some soldiers' names had been removed, so it does not reflect the full count of all soldiers who signed. The names that were removed were crossed out or inked out thoroughly, and it is difficult, if at all possible, to tell what those names were. Appendix C is a list of the remaining soldiers, including those who may have signed, and those who may not have.

Names have been transcribed by comparing several sources, including (at a minimum) the list of signatures as it appears in the court martial transcript, the muster rolls, and the register of enlistments. Efforts have been made to record each name accurately.

I have indicated whether a soldier signed by leaving an X (which would be indicated as "his mark" on the document) or whether they signed their full name. A full signature suggests that soldier had some degree of literacy, although it does not tell us exactly how well they could read or write.

<b>Name</b>	<b>Rank as of 7/73</b>	<b>Company</b>	<b>Signature</b>
Amos, Monroe	Pvt.	F/25	X
Antone, Isaac H	Pvt.	D/9	X
Bannar, John	Pvt.	D/9	X
Bird, Henry	Pvt.	K/25	X
Bishop, Charles	Pvt.	D/9	X
Boyd, Henry	Pvt.	D/9	X

Breckenridge, William	Pvt.	D/9	X
Britton, Erias	Pvt.	D/9	X
Brockway, Dennis	Pvt.	K/25	X
Brown, Edward	Pvt.	D/9	X
Brown, John	Pvt.	D/9	X
Burley, Reuben	Pvt.	K/25	X
Carson, Daniel	Pvt.	F/25	X
Clanton, Jesse	Pvt.	K/25	full name
Collier, Lewis	Pvt.	K/25	X
Cook, Payton	Pvt.	F/25	X
Corbin, William	Pvt.	D/9	X
Crawford, Allen	Pvt.	F/25	X
Cummings, Robert H	Pvt.	D/9	X
Cunnigan, John	Pvt.	F/25	X
Douglas, Louis	Blacksmith	D/9	X
Dunmore, Frank	Pvt.	F/25	X
Ely, Absolem	Sgt.	D/9	X
Foster, Elisha	Pvt.	F/25	X
Gadsden, Peter	Pvt.	K/25	X

Gaston, Edward	Cpl.	D/9	X
Glover, William	Pvt.	D/9	X
Guddy, Ziek	Trumpeter	D/9	X
Hadlee, Samuel	Pvt.	D/9	X
Hale, Samuel W	Pvt.	F/25	X
Hall, William E	Pvt.	D/9	full name
Harris, Daniel	Pvt.	D/9	X
Harrison, Henry	Blacksmith	D/9	X
Haver, Green	Pvt.	K/25	X
Hawker, Nicholas	Pvt.	F/25	X
Hayden, Robert	Pvt.	D/9	X
Hayes, Joseph	Pvt.	F/25	X
Hiter, Barney	Pvt.	K/25	full name
Hockaday, John E	Pvt.	F/25	X
Housley, George	Pvt.	D/9	X
Hurd, John	Pvt.	F/25	X
Jackson, John	Pvt.	D/9	X
Jacobs, Innocent	Saddler	D/9	X
Jewett, James	Pvt.	K/25	X

Johnson, Augustus	Pvt.	F/25	X
Johnson, Charles	Pvt.	K/25	X
Johnson, Henry J	Pvt.	K/25	full name
Johnson, John	Cpl.	D/9	X
Johnson, Lewis	Pvt.	K/25	X
Johnson, Sorrell	Pvt.	D/9	X
Jones, Anthony	Pvt.	D/9	X
Jones, Henry	Sgt.	D/9	X
Jones, John R.	Sgt.	D/9	X
Lackey, Green	Pvt.	D/9	X
Landon, James	Musician	K/25	X
Laudron, Daniel	Cpl.	D/9	full name
Leaumont, Henry	Sgt.	F/25	full name
Lee, John	Pvt.	K/25	X
Lee, Thomas	Sgt.	D/9	full name
Lee, William H	Wagoner	D/9	X
Lewis, Isaac	Sgt.	D/9	full name
Lewis, James	Pvt.	D/9	X
Lewis, William	Pvt.	D/9	X

Linsey, Richard	Pvt.	F/25	X
Lione, Jacob	Cpl.	F/25	X
Lusk, James	Pvt.	K/25	full name
Mack, William	Pvt.	D/9	X
Madison, Squire	Pvt.	F/25	X
Marshall, Frank	Pvt.	F/25	X
Marshall, John	Pvt.	D/9	X
Mason, henry	Pvt.	F/25	X
Massey, John	Pvt.	D/9	X
McDonald, Rufus	Pvt.	D/9	X
McDowell, Sanford	Pvt.	D/9	X
Mitchell, Albert	Pvt.	K/25	X
Mitchell, Robert	Pvt.	D/9	X
Monday, William	Pvt.	D/9	X
Morgan, Cornelius	Cpl.	D/9	full name
Mullin, Andrew	Pvt.	D/9	full name
Nicholas, George	Pvt.	D/9	X
Pitts, William	Pvt.	D/9	X
Polk, James K.	Pvt.	F/25	full name



Porter, Charles	Pvt.	F/25	X
Richardson, Jacob	Cpl.	F/25	X
Ringold, George	Pvt.	K/25	full name
Roberts, George	1st Sgt.	D/9	full name
Roberts, John F	Pvt.	K/25	full name
Robinson, James	Artificer	F/25	X
Ross, Leve	Pvt.	D/9	X
Russell, Ellis M.	Sgt.	F/25	full name
Russell, Thomas	Pvt.	F/25	X
Santifer, Jefferson	Sgt.	F/25	full name
Shelton, Houston	Pvt.	D/9	full name
Smiley, Isaac	Pvt.	F/25	X
Smith, Samuel	Pvt.	F/25	X
Smithers, Richard	Pvt.	D/9	full name
Steele, George	Pvt.	K/25	full name
Thomas, John	Sgt.	F/25	full name
Walden, John	Pvt.	F/25	X
Walker, Jefferson	Pvt.	K/25	full name
Wells, Levi	Musician	F/25	X

Wheeler, John H.	Pvt.	K/25	full name
Williams, Charles	Pvt.	K/25	X

## Appendix C

### Soldiers whose names do not appear on the petition letter

The following is a list of all soldiers whose names *did not* appear in the list of signatories at the time of the trial. This list was compiled from the muster rolls for all three companies, covering the period of June 30th through August 31st, 1873. A soldier's name appearing in this list does not necessarily mean they never signed; some 26 had their names removed from the document. We do not know which soldiers had their names removed, except those who were specifically said during the trial to have done so.

As with the previous list, all efforts have been made to accurately transcribe names with regards to spelling. Each name was compared with its spelling on the register of enlistments.

Name	Rank	Company
Anderson, Lewis	Pvt.	K/25
Baker, Ishmael	Cpl.	K/25
Beaton, Abraham	1st Sgt.	K/25
Boyne, Thomas	Pvt.	F/25
Bruce, Charles	Pvt.	F/25
Buck, Calvin	Pvt.	F/25
Canada, Alfred	Pvt.	F/25
Cook, James	Cpl.	K/25
Courtney, Charles	Pvt.	F/25
Dawson, Joseph	Cpl.	F/25
Dinwiddy, Daniel	Pvt.	K/25
Duncan, Thomas	Cpl.	K/25

Early, John	Pvt.	K/25
Ervin, William	Pvt.	D/9
Fishback, Richard	Pvt.	K/25
Fitchet, Custis	Pvt.	K/25
Gant, Samuel	Pvt.	D/9
Gilliard, John A	Pvt.	K/25
Hammond, George	Musician	K/25
Henderson, Isaac	Pvt.	F/25
Henry, Alphonse	Pvt.	F/25
Histon, John	Artificer	F/25
Holloman, Solomon	Sgt.	K/25
Homer, Thomas	Pvt.	F/25
Howard, Edward	Pvt.	K/25
Hunt, Delaware	Pvt.	K/25
Jackson, George	Pvt.	K/25
Jefferson, Thomas	Artificer	K/25
Jones, Robert	Pvt.	F/25
Jones, Wm H	Pvt.	F/25
Laudron, Isaac	Pvt.	D/9
Leonard, Henry	Pvt.	K/25
Madison, John	Pvt.	D/9
Manningly, Jesse	Pvt.	K/25
Marshall, James	Wagoner	F/25
Mew, Benjamin	Sgt.	K/25

Miles, John	Pvt.	D/9
Mitchell, Joseph	Pvt.	K/25
Monot, Joseph	Cpl.	F/25
Moodey, John	Pvt.	K/25
Moore, George	Pvt.	D/9
Morgan, James	Pvt.	D/9
Morris, Joseph	Pvt.	D/9
Motley, John	Trumpeter	D/9
Noneville, Charles	Pvt.	F/25
Osborn, Dennis	Musician	F/25
Passonet, Andrew	Pvt.	K/25
Perry, Henry	Sgt.	K/25
Phillips, Addison	Pvt.	D/9
Ratliff, Benjamin	Pvt.	F/25
Rhodes, George W.	Pvt.	K/25
Robinson, Woodson	Pvt.	F/25
Scott, James M	Pvt.	K/25
Scott, Joseph	Pvt.	K/25
Show, Thomas	Pvt.	F/25
Smith, George	Pvt.	K/25
Stout, Albert	1st Sgt.	F/25
Taylor, John (deceased)	Pvt.	K/25
Taylor, John	Wagoner	K/25
Taylor, Wyatt	Pvt.	F/25

Thomas, William	Pvt.	F/25
Thompson, Benjamin	Pvt.	K/25
Tinney, Edward	Artificer	K/25
Titus, Charles	Pvt.	F/25
Turner, Gabriel	Sgt.	K/25
Van Buren, Martin	Pvt.	F/25
Vandoland, Robert	Pvt.	F/25
Washington, George	Pvt.	K/25
Washington, James H.	Pvt.	K/25
Weaver, Nathaniel	Pvt.	K/25
Weiland, Thomas	Pvt.	K/25
Williams, John	Pvt.	F/25
Williams, Troy	Pvt.	F/25
Wood, Benjamin	Pvt.	F/25
Yeager, Frederic	Pvt.	K/25

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Haver, Green  
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Jackson, John  
Jewett, James  
Johnson, John  
Mitchell, Albert  
Moody, John  
Rhodes, George W.  
Ringold, George  
Scott, James M.  
Smith, Samuel  
Taylor, John (1st)  
Tomkins, James S.  
Walker, Jefferson  
Weaver, Nathaniel  
Williams, Charles

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