

PRELIMINARY REPORT
OF
COMMISSION OF THE CONSTITUTION LEAGUE
OF THE
UNITED STATES
ON
AFFRAY AT BROWNSVILLE, TEX.,
AUGUST 13 AND 14, 1906,
AND THE
DISCHARGING "WITHOUT HONOR" OF THE THIRD
BATTALION, TWENTY-FIFTH INFANTRY, UNITED
STATES ARMY, AT FORT RENO, OKLAHOMA,
IN NOVEMBER, 1906.

NEW YORK, DECEMBER 10, 1906.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1906.

**INQUIRY RELATIVE TO CERTAIN COMPANIES OF
THE TWENTY-FIFTH UNITED STATES INFANTRY.**

Mr. FORAKER presented the following

PETITION OF THE CONSTITUTION LEAGUE OF THE UNITED STATES, PRAYING THAT CONGRESS INSTITUTE AN INQUIRY RELATIVE TO THE DISCHARGE "WITHOUT HONOR" OF COMPANIES B, C, AND D, THIRD BATTALION, TWENTY-FIFTH U. S. INFANTRY.

DECEMBER 11, 1906.—Referred to the Committee on Military Affairs and ordered to be printed.

**THE CONSTITUTION LEAGUE OF THE UNITED STATES,
New York, December 10, 1906.**

To the Senate and House of Representatives of the United States in Congress assembled:

The Constitution League of the United States, in response to the demands of its branch leagues and constituents throughout the several States, respectfully memorializes the Congress to institute an inquiry relative to the discharge "without honor" of Companies B, C, and D of the Third Battalion, Twenty-fifth U. S. Infantry, and cause such inquiry to be pursued by a Congressional investigating committee empowered to send for persons and papers.

The basis of this memorial is found in a preliminary report of a commission of inquiry sent by the Constitution League to Fort Reno, Okla.; Fort Sam Houston, San Antonio, Tex.; and Fort Brown, Brownsville, Tex., which seems to indicate that the riot of August 13 was neither created nor participated in by members of the above companies.

Pending a more complete presentation of the case, by witnesses yet to be summoned, the league commission respectfully shows: That the publication on November 17, 1906, by the War Department, of a pamphlet concerning the "affray at Brownsville, Tex., August 13 and 14, 1906," purports to reproduce the official files bearing upon the primary and final action taken by the President and by the War Department.

This record discloses the singular fact that from first to last the Washington authorities assumed that negro soldiers were more or less engaged in the affray. Indeed this assumption is in terms

incorporated in the War Department's instructions of October 4, 1906, issued to Inspector-General Garlington, who was directed by the President to proceed to Texas for information that would lead to the "apprehension and punishment of the men of the Twenty-fifth Infantry believed to have participated in the riotous disturbance;" and authorizing this inspector in the name of the President to threaten that command that unless its soldiers disclosed "facts relating to the shooting, killing, and riotous conduct on the part of the men with the organizations serving at Fort Brown," orders of dishonorable discharge of all the three companies will be "immediately issued" "debarring all the men from reenlisting" and from "employment in any civil capacity under the Government." (Government report, p. 107.)

This remarkable assumption, conclusion, and official action seems to have been taken before the testimony of a single enlisted man affected by it had reached or could have reached Washington. The sworn testimony of the soldiers had been taken individually, and covers 87 of the 112 printed pages of this official pamphlet. This testimony was transmitted from Oklahoma City, Okla., in a report made by L. A. Lovering, lieutenant-colonel Fourth Infantry, acting inspector-general, addressed to the military secretary, Southwestern Division, Oklahoma City, Okla., and dated October 4, 1906; which date is precisely the date of the instructions above quoted in which the War Department directs General Garlington to proceed to Texas with the Executive menace which thirty days later became so unhappily fulfilled.

Of course it is conceivable that the testimony embodied in the report from El Reno, Okla., and dated October 4, 1906, might have been telegraphed to the War Department, but this would have been a great expense which there is no doubt was not incurred, for if it had been, the fact would have appeared in this official pamphlet purporting to print the official files up to the issue of the President's final order of discharge.

These files show that Inspector-General Garlington had departed on, and was not summoned back from, his forestalled mission when the sworn testimony of the 167 enlisted men affected reached the Secretary of War's office.

The report of this inspecting officer is not accompanied by the depositions of any soldiers.

It was not necessary, for all had been individually questioned, and on oath had told all about where they were, what they did, and what they knew in connection with the firing. It does not appear that General Garlington ever saw or read that testimony prior to the date of his "report" and his "recommendations" in favor of executing the Presidential menace. Nor could the President have read it when on October 4, the menace was authorized; for it had not then reached Washington.

No unbiased reader can peruse this printed evidence without concluding therefrom that none of the soldiers so testifying were participants in the firing, or had guilty knowledge of its participants. Of course, if individual or wholesale perjury on the part of the soldiers be assumed, any jury would be at liberty to disregard the whole or any part of this testimony; but no jury, much less any administra-

tive officer, can be justified without cause in totally disregarding it. As matter of fact it was disregarded in the assumption and action taken by the War Department in its order above, dated October 4, 1906.

Since then, also, it seems to have been totally ignored.

For this unassailed and apparently unassailable testimony there has been substituted a series of "opinions," first by the unsworn and loose "talk" of prejudiced civilians, not subjected to cross-questions; and, secondly, by some officers, who, like Major Penrose, think it "damaging evidence" that "empty shells and used clips" should be picked up by civilians, when everybody about the place well knew that these things might be had in abundance from the grounds of target practice and other débris about a garrison. Some officers, too, have accepted without fair questioning the unsworn "statements" of citizens that the firing was done by negro soldiers, when it was too dark to see faces or uniforms, and when the garments described correspond with the khaki trousers or blue shirts almost universally worn in that vicinity—particularly by the class of men likely to be present in any physical commotion.

On the whole the War Department pamphlet absolutely fails to establish in the mind of any unbiased readers its finding that soldiers of Companies B, C, and D were participants in the riot. On the contrary, to any person accustomed to read evidence, or to weigh it, such a presumption is utterly irreconcilable with the testimony set out in this Government pamphlet.

Even upon the theory that some soldiers have sworn falsely such a presumption is not justified by the balance of the printed record.

The presumption, assumption, and conclusion, however, of individual guilt furnish the basis upon which the head of the Army has awarded judgment and inflicted penalties upon 167 men, who, if their own evidence is credible, are themselves entirely innocent.

As to proof of guilt on the part of the soldiers there is absolutely none given under oath and by cross-questioning, or given in any proceeding where oaths could be judicially administered.

Why should army discipline be grounded on any such extraneous, unrecognized, and extrajudicial proceeding?

The answer is that in fact official opinion and action has been so grounded. Hence, this inquiry is to know of what this so-called "evidence" consists.

The Army and Navy Journal, in its issue of November 24, 1906, thus summarizes it:

The finding against the negro soldiers is based upon the testimony of white men given under circumstances that deprive it of all value as legal evidence. Each of the soldiers at Fort Brown, at the time of the outrage, which gives rise to this inquiry, positively denied that he, or any of his comrades, so far as he knew, had anything to do with the shooting, and a number of them testified under oath that it was the work of men outside the post.

The testimony given before the citizens' committee, which appears in this pamphlet, was taken by a wholly irresponsible body without authority to administer an oath; it was obviously partisan in its character, and it assumed in advance the guilt of the soldiers, as is shown by this question, which was addressed to different witnesses:

Q. We are inquiring into the matter of last night with a view to ascertaining who the guilty parties are. We know they were negro soldiers.

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As to the question whether the shooters were negro soldiers, this was the testimony:

Mr. MARTINEZ (who spoke through an interpreter).

Q. Were they negroes or white men?—A. Negroes.

Q. Did you see their uniform?—A. No; I saw their—what you call it—bulk.

Mr. BOLACK (Hebrew). Saw nothing. My daughter heard them talking when they passed the window—and they were negroes.

Mr. MOORE. Could you tell who they were—negroes or white people?—A. Well, it was a good, strong voice, and English spoken.

Mr. CANADA. Did you see or hear anything that would lead you to believe that they were negro soldiers?—A. Nothing, except the general tenor of the affair.

Policeman Fernandez, who was shot, at first said he could not tell whether it was by a six-shooter or gun, but when he was prompted by the committee he said:

Q. These were army guns?—A. Yes.

Did not know whether it was citizens or soldiers who shot him.

Mr. STAROK. Were you able to identify any of them as being negroes?—A. No; Mr. Madison knew by their talk that they were negroes.

Q. Did you see any soldiers?—A. No.

Mr. McDONALD. I don't know whether they were negroes or white men, but they were United States soldiers.

Doctor Thorne, who heard some cursing, said:

It was a negro's voice.

HERBERT BLKINS. You know the object of this meeting. We know this outrage was committed by negro soldiers. We want any information that will lead to a discovery of whoever did it.

In response, the witness said: "I could swear they were negro soldiers," and he went on to describe several of them who "wore khaki pants, regulation blue shirts, and belts."

Policeman Ramirez testified that he saw "five or six soldiers shooting." They were ordered to march, and on a second order, did so.

Policeman Padrou, who confirmed this statement, said: "I know they were soldiers, because they were in uniforms."

Mr. Campbell testified that he met a whole company of soldiers—fifty or sixty men—but did not see any firing. They turned their guns on him and his companions, saying: "What are you sons of bitches hunting for?"

Three witnesses said that they heard two bugle calls. Two said the first bugle call followed the shooting; the other said: "There were some shots before the bugle call; then more shots; then the bugle call; then more shots." Several witnesses said that men with guns were seen jumping the garrison wall after firing had been heard from behind the wall. This is all the testimony before the citizens' committee bearing upon the question of the guilt of the negro soldiers.

One soldier witness was with a group of patients on the hospital porch and saw a party of mounted men riding along the garrison fence firing, and the witness told the way they went and when their firing ceased. It was impossible for the infantry men of the Twenty-fifth to do this and to report in person as they did at roll call. Some of the roll calls were had before the firing had entirely ceased.

Every man at the roll calls of the three companies was present or accounted for within five to (at the maximum) eight minutes of the

first alarm, and this alarm was coincident with the first firing. The major [Penrose] had not yet retired; and in the absence of the officer of the day, who could not be found, and says he slept through it all, the major supervised the turning out of his command.

Of course everybody thought the post was being assailed and acted accordingly. All unite in so testifying. It subsequently transpired that most of the firing was pointed in the air, was high, was from "mixed arms," that is, guns of more than one kind, and of pistols, some persons recognizing Winchesters and some other rifles. In one case a leaden, not a steel, bullet was recognized by its sound.

All the Government pamphlet tends to show that a party of men, not large, were engaged in a sudden and preconcerted "shooting up" of some part of the town—an occurrence formerly not unusual in frontier localities. Whatever may have been the primary motive for so doing, the assailants dispersed as the patrol from the post came upon the scene. Meanwhile some policeman got between the lines of fire, and the chief of police was wounded.

What caused the opposing lines of fire is the natural inquiry.

The War Department pamphlet shows a possible motive to destroy a new saloon operated by an honorably discharged colored soldier [Allison] upon capital furnished by an enlisted man [Holloman] still in the service. If this enterprise was profitable it may very reasonably have been the object of assault and defense, of a "shooting up" and a shooting back, if tenanted for a defense. All of these considerations arise from an analysis of the depositions that had not yet arrived at Washington when the conclusion of guilt was embodied in the War Department order of October 4.

The arrival of these depositions might have produced a modification of the Garlington instructions, or his recall; but apparently they have never received serious consideration.

Garlington's "report," although unaccompanied by an iota of evidence, seems to be in line with what his instructions obviously intended he should make. It gives no concern to the merits of cases of any soldiers, and throws no light whatever on the main question as to whether or no any of the shooters were negro soldiers.

Hence an independent inquiry has been made by the Constitution League of the United States, resulting in what are believed to be true statements, comprised in the following narratives, and affidavits referred to.

**INCIDENTS PRIOR TO AUGUST 13, 1906, SHOWING ANIMOSITY FELT BY
CITIZENS OF BROWNSVILLE, TEX., AGAINST THE COLORED SOLDIERS.**

That the citizens of Brownsville were inflamed by the report that colored soldiers would be sent to garrison the post there is a fact of which the War Department was cognizant.

Second Lieut. E. P. Thompson, of the battalion of the Twenty-sixth Infantry (white), which was replaced at Fort Bowen by the Third Battalion of the Twenty-fifth, says (p. 94, Government report):

When it was known that a battalion of the Twenty-fifth U. S. Infantry was to garrison the post many derogatory remarks were made before its arrival by some citizens in reference to the colored soldiers in words as follows, or words to the same effect: "We don't want the damn niggers here;" "Niggers will always cause trouble;" and "To hell with the colored soldiers."

Lieut. H. S. Grier says (p. 43, Government report; sworn testimony of officers in investigation conducted by Lieut. Col. S. A. Lovering):

The very first day, on our arrival at Brownsville, I registered at the Miller Hotel, and in the conversation with the clerk in regard to colored troops being sent to Texas, he said that the people were very much opposed to their coming, and they must not take any undue liberties or there would be trouble.

Many men and noncommissioned officers state that upon their arrival at Brownsville they were greeted with angry, sullen silence by some, and by other citizens with such remarks as "The niggers are here, but we will give them hell while they are here."

SOLDIERS INSULTED AND ABUSED AFTER THEIR ARRIVAL.

On August 5 Private James Newton, of Company C, while walking down Elizabeth street with Private Frank J. Liscomb, passed a man who he was afterwards told was Customs Officer Tate, who was talking with some ladies. Newton and Liscomb, in attempting to pass in single file between the ladies and the fence on the inner side of the sidewalk, were intercepted by Tate, who, pulling a revolver, struck Newton on the head, knocking him down. As he arose Tate said to him:

Get along, damn you, or I will blow your brains out; whenever you nigger soldiers see a white man on the sidewalk talking to ladies get off the sidewalk and get into the street. (See Liscomb affidavit "A," Constitution League Commission Report; corroborated by Government report, p. 13.)

On August 8 Private Clifford J. Adair, of Company C, was returning from Matamoras, Mexico, where he had been spending the day on pass. In getting off the ferryboat he was, without provocation, roundly cursed by the United States custom officer and roughly searched. A gold penholder was forcibly taken from him, and when he offered to pay the duty on it was not allowed to do so, but was cursed and told:

You damn nigger soldiers are too smart.

Adair reported the occurrence to the commanding officer. (Affirmed by Government report, pp. 40 and 59.)

While Private Oscar W. Reid, of Company C, was waiting for a companion at the ferry for Matamoras, a man, whom he afterwards identified as a Mr. Baker, a custom-house inspector, came up to him and said: "Move on." When Reid attempted to explain his mission he was told not to say a "damn word," and was bodily thrown off the board walk into the deep mud and water alongside it. He got out with difficulty.

The members of the Third Battalion were at this time, and had been ever since their arrival in Brownsville, subjected to annoying and vulgar insults and hooted and jeered at in the streets as "nigger soldiers." In saloons insulting and coarse remarks were made to and about them as they passed through the main saloons to sections in the rear where separate booths or stalls had been arranged for them to drink in. So intolerably frequent did these insults become and so aggravated their intensity for the purpose of provoking a saloon brawl, that after considerable barrack talk John Holloman, of Com-

pany B, decided to build a small saloon especially for the colored soldiers. This was done, and William Allison, an honorably discharged colored soldier of the Twenty-fifth Infantry and a resident of Brownsville, was placed in charge as bartender. This independent evasion of the "Jim Crow" customs of the town, instead of quieting the race feeling, intensified the prejudice and bitter feelings, including commercial jealousy. This was particularly noticeable among the lower white element, which feeds upon the saloon and its adjuncts.

On August 13 Mr. Evans, a citizen of the town, came to Major Penrose and reported that his wife had been insulted by a colored man who she was sure was a soldier, as he wore the khaki uniform and regulation hat. Major Penrose says (Government report B, p. 14): "His statement that his wife was seized by a soldier I was inclined to doubt." There was every reason to doubt it. This battalion had been stationed at Fort Niobrara, Nebr., for four years—5 miles from town. They had passed and repassed white women on the road and were on the most friendly terms with the citizens, and not one instance of this character was reported, or has ever been, for that matter, in the history of the battalion. It seems improbable that a mere transfer of these soldiers from Nebraska to Texas would, in two weeks' time, particularly in a hostile country, make a "demon" out of a soldier in a border town where "prostitutes are too common in the town" (see Penrose's statement, Government report, p. 14) and where Mexicans form a large portion of the population.

KHAKI THE USUAL GARB OF NUMEROUS CITIZENS.

The fact, established by affidavits and a matter of common knowledge, is that the khaki uniform is worn officially by the police of Brownsville and frequently by rangers and by dozens of citizens. This precludes the assumption that Mrs. Evans's assailant was necessarily a colored soldier.

Major Penrose informed Mr. Evans that he would hold an investigation to ascertain whether the guilty man was one of his battalion, and if so, which one. The reported insult offered Mrs. Evans added fuel to the fire of hatred felt by the citizens toward the colored soldiers, and threats were frequently made that the soldiers would be shot on the streets that night. Dr. Frederick Combs said, in conversation with Evans and Penrose, that "if there is not an arrest made between this and 11 o'clock every enlisted man seen on the streets will be shot." (See League Affidavit B of Wilbur Voschelle, white citizen of Brownsville.)

Major Penrose, recognizing that there was danger ahead, and that the spirit of the citizens foreboded a riot, issued an order to Capt. E. A. Macklin, officer of the day, to send patrols throughout the town to gather in all soldiers on post or anywhere else; to arrest any refusing to come, and to have published at retreat that on man would be allowed out of the fort after 8 o'clock p. m. until further notice (Constitution League Affidavit C). These facts are sustained by Government report and frankly admitted by Major Penrose and Macklin. Captain Macklin communicated this order to Samuel Wheeler, corporal of the guard of first relief, who com-

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plied with it (Constitution League Affidavits D and U). Upon Wheeler's asking the cause of the order, Macklin replied:

People, it seems like, are trying to give us some trouble; a lady has reported that she was insulted by some soldier, but we do not believe anything of the kind. I will see the commanding officer in the morning and have this matter thoroughly investigated.

The order was published at retreat (League Affidavit C).

Private Ash, who was sent out from the fort that evening by order of Major Penrose, went into the town to aid in rounding up the colored soldiers. He was insulted, hooted, and jeered at, and called all manner of vile names (Constitution League Affidavit D).

FACTS RELATING TO THE FIRING OF MIXED ARMS ON NIGHT OF AUGUST 13, 1906.

At 11 o'clock, on the night of August 13, at check roll call, all men were found present or accounted for. The gun racks had been checked in the morning, when all guns were locked up and verified. Captain Macklin, as officer of the day, on his 11 o'clock round of all the guards and barracks, including the patrol guard, reports that he found all men in quarters and everything quiet, with no unusual disturbance; that the men were all sleeping, and that, having completed his rounds, he retired to his quarters for the night (Government report, p. 40).

Between 12.20 and 12.30 a. m. the firing of guns was heard, which, judging from the affidavit and evidence, seems to have come from the road in front of Company B's headquarters. Corporal Wheeler, who was not yet asleep, says he heard two shots (League Affidavit D). Major Penrose rushed out and met Charlie Hariston, of Company B (Constitution League Affidavit E), who was assigned that night as sentinel at Post 3, around officers' headquarters. Both hurried toward the company barracks. Major Penrose directed Hariston to order Robinson, the bugler of the guard at the tower of the guard, to sound the call to arms. Hariston found Sergeant Reid already aroused, and both told Robinson to sound the call to arms. Robinson complied with the order immediately, while the firing was still furiously going on downtown.

The statement of citizens (Government report A, pp. 21-33) that they heard a bugle call as a signal before firing, and then a second bugle call which brought on the firing, is a willful or unintentional perversion of the facts, as it would be impossible for two bugle calls to be sounded in a fort garrisoned by soldiers at that time of night without causing confusion among both officers and men.

Constitution League Affidavit F of Robinson shows that the call to arms was sounded instantly after the order given by Penrose. The men of Companies B, C, and D, who were asleep in their barracks, being aroused by the firing and the call to arms, hastily dressed, and, securing their arms, immediately fell in line in front of their respective quarters.

FULL ROLL CALL WITHIN EIGHT MINUTES AFTER CALL TO ARMS.

While the men were falling in line, the firing was still going on furiously beyond the stone wall of the fort. The rolls were ordered called immediately. League Affidavits G, H, and I of soldiers of

Companies B, C, and D, and affidavits J, K, and L of First Sergeants Sanders, Harley, and Frazier, respectively of B, C, and D, all prove that the time from the call to arms and the roll call was only eight minutes at the longest. Major Penrose states that it was about five minutes.

Capt. S. P. Lyons, of Company D, one of the first officers as well as one of the first to arrive at battalion headquarters, says that the roll was called within five minutes, and Major Penrose says "that within five minutes afterwards entire command paraded and all men found present or accounted for and rifles in racks locked." (Government report, p. 11.)

BOLL CALLS SHOWED ALL MEN PRESENT OR ACCOUNTED FOR.

The rolls of the companies, as verified by the officers (all commissioned officers are white), show that in Company B all men were present or accounted for. Substitutes at these roll calls were impossible. (See Roll Call, Exhibit A, and Sanders's affidavit I.) In Company D all men were present or accounted for. Two were on pass—Walter Johnson and Corp. Charles H. Hawkins—whose rifles were, however, in the racks, as attested by Captain Lyons. (League Affidavit L and Government report, p. 41.) They afterwards gave undeniable proof that they were asleep—one in town and the other in Matamoras. In Company C the roll call was started as in the other companies, but as the gas lamps were insufficient where the company had fallen in line, Major Penrose ordered Lieutenant Grier to count the men. Grier counted them, and all were present or accounted for except two, whom a subsequent roll call showed were Sergeant Thomas and Private Edward L. Lee, who were out on pass, and who afterwards furnished information as to their whereabouts satisfactory to their officers.

GOVERNMENT'S VERDICT OF GUILTY INVOLVES A MIRACLE.

The facts that the rolls were called and answered in full within a few minutes after sounding the call to arms, and that firing was still going on furiously while the men were forming in line, make it necessary, in order to vindicate the Government verdict of guilty, to conceive men equipped with such miraculous speed and invisibility of person as to get back over the stone walls to their companies and answer roll calls without being detected by the commissioned and noncommissioned officers, all of whom except Macklin, were then in charge of their respective companies. The roll, called twice by order of Penrose, shows all men present and accounted for except four on pass, all of whom subsequently testified satisfactorily as to their whereabouts on that night.

At the completion of the roll calls, Major Penrose issued the following orders: For Lieutenant Grier, in charge of Company C, to take a position of defense on the walls of the fort; for Lieutenant Lawson, in command of Company B, to support C; and for Captain Lyons, of Company D, to form a skirmish line guarding the most exposed portions. Major Penrose finally ordered B to move up and guard the exposed portions, and Company D to deploy and march through town. (See Government report, p. 111, and League Affi-

davits I, K, and L.) These orders were all carried out by the various company commanders. On the march through town of Company D, under Captain Lyons, the soldiers saw citizens with rifles and dressed in khaki uniforms and regulation hats who, upon inquiry by Captain Lyons, turned out to be, according to the statement of the mayor, special policemen. (See League Affidavit L, Fraser.)

The mayor said that there had been one man killed, a policeman wounded, and a horse killed. After the company had marched up the street where a large crowd was assembled, they marched back to quarter, and with Company B lay around on the grass until about 8.30, when they were ordered in, and the guns were again locked up in the racks. (See League Affidavits J and L.) Company C remained on guard all night in addition to the regular guard made up from the other two companies, and they formed a cordon of sentinels around the north and east sides of the post. Both B and D were ordered to turn in to their barracks.

The next morning, as soon as it was light enough to see, every rifle of the entire three companies was again inspected, and all were found unfired, bright, and clean. At 9 a. m., Company B relieved Company C from guard duty. (See Government report, p. 12, and League Affidavits J, K, and L.)

If the private soldier, Edward A. Sanborn, of the U. S. Army Hospital Corps, now stationed at Fort Sam Houston, San Antonio, Tex., could be compelled to testify to facts within his knowledge, it could be shown that on the night of the riot, August 13, there were eight negro soldiers in the hospital, and that on returning to the hospital that night about 12 o'clock he heard the bullets flying over the hospital. They were not likely to have been fired by soldiers to injure their comrades in the hospital.

He knows that Dominguez, the policeman who was injured, had a bad reputation and had been shot before in street rows. Sanborn dressed the wound of the negro soldier who had been assaulted by Tate, the customs officer. First-class Sergeant Francis L. Altman, of the Hospital Corps, U. S. Army, now stationed at Fort Washington, Md., can give like testimony as to the bullets and shooting.

FIRING WAS OF MIXED ARMS.

Major Penrose and every noncommissioned officer and private of long experience and service in the Army, many of whom have certificate of proficiency in judging distances and locations of firing, and whose ears are trained from target practice, as well as from actual battle engagements in three wars (the Indian campaign, the war with Spain, and the Philippines war), accurately to discern and discriminate the reports made by the firing of the Government rifles and other rifles, all unanimously agree, that the firing was of mixed arms—Winchester, pistols, etc. (See League Affidavits, Companies B, C, and D; and League Affidavits I, K, and L of sergeants and privates.) From the official orders issued, and the actions of both officers and men, it is undeniable that all thought there was an attempt being made either to attack the fort or to do some soldiers of the fort bodily injury.

Every affidavit, the officers' statements and sworn testimony, and the letters of Major Penrose show it to be an incontrovertible fact

that from the time Major Penrose ordered the call to arms and Hoyt Robinson sounded the bugle until the men secured their guns from the gun racks, fell in line, and answered the rolls, the interval did not exceed eight minutes. The official records show that every man answered the roll call and was accounted for except four. The question presents itself: How could men be answering roll call—as the official roll shows they did—and at the same time be in town shooting it up? Sergt. George W. MacMurray, of Company C, says in testimony (Government report, p. 44) that he was among the last to fall in line in his company, the company being practically formed, and that firing was still going on down town. Major Penrose says (A, p. 10, Government report) that “within five minutes entire command was paraded and all men found present or accounted for.”

William Harden, of Company B, who was in the hospital, said in a statement also borne out by affidavit (Government report, p. 92) that the shooting woke him up, and he went out on the hospital porch where he saw a crowd of mounted people galloping along the wire fence from east to west along the north boundary of the post. They opened up fire near where the wire fence joins the wall in the rear of the first set of barracks. They fired a few shots there and then rode on along the wall to where most of the firing took place, in the rear of B and C companies' barracks. Charles E. Rudy, artificer of Company C, says (borne out by affidavit, Government report, p. 92) that he was asleep on the front porch of his quarters and heard a shot fired and then a number of shots. He got up and went into quarters, and by the time he got there a call to arms had sounded. He went to the gun rack to get his gun, but finding the gun rack locked went to the back-door and looked out to see if he could discover who was doing the shooting. He saw the flash of a number of guns which were being fired from along the wall which separates Fort Brown from Brownsville. It looked as if they were being fired from the outside of the wall toward Company B headquarters, but the fire was high. As the shooting continued he heard cursing and calls of ‘Come out, you black sons of bitches, and we will kill all of you.’

Corpl. John H. Hill (see league affidavit M), who was in the rear of post No. 3, deposes that he saw five or more citizens run from a dark place near the stone wall toward the town, in front of Company D's quarters, where they had evidently been in hiding. This fact he reported at once to Captain Lyons.

William Mapp, private of Company C, says (Affidavit, p. 96, Government report) that he was awakened that night by firing, and that he heard voices on the outside of company barracks saying: “Come out, you black sons of bitches.” This invitation seemed to come from outside—back of the quarters.

TESTIMONY OF BROWNSVILLE CITIZENS WHO SAW NO SOLDIERS.

William Voschelle (a white citizen of Brownsville) employed by the United States Government at Fort Brown, deposes (see League Affidavit B) that he was sleeping in town on the night of August 13, and being aroused by the firing, hastily dressed and went toward the post, fearing that there was trouble in the fort and that he would be needed. He further deposed that he did not meet a single soldier,

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but met four citizens dressed in khaki uniform with arms, talking about the soldiers, and also two policemen. This is a very important affidavit, as Voschelle can be reasonably classed as an entirely disinterested person; and the fact that he saw no soldiers, but only armed citizens in khaki uniform, throws a very significant light upon this question.

Mathias G. Tamayo (Affidavit, p. 19, Government report) who is a Mexican, and the scavenger of the post, testifies that he was back of Company B quarters when firing occurred. His mule was frightened by the firing and ran away up the road. He says that he saw no soldiers nor saw nor heard any shots fired from any of the company barracks, but that the shots came from outside the wall and appeared to be going toward the Rio Grande. If soldiers had been firing from barracks, or stone walls of barracks, Tamayo would have had knowledge of it. This man testified before the grand jury of Cameron County. That jury failed to find an indictment against any of the men charged. (See statement in the letter of the presiding judge of the twenty-sixth Texas judicial district, as herewith shown.) This judge has since been murdered at Rio Grande City, where there are no negro troops.

JUDGE WELCH'S LETTER ANNOUNCING DISCHARGE OF ARRESTED SOLDIERS.

BROWNSVILLE, TEX., *September 27, 1906.*

MILITARY SECRETARY, DEPARTMENT OF TEXAS,
San Antonio, Tex.:

Following letter received by me this date, repeated for your information, quote Deas Archer, First Lieutenant, Twenty-sixth U. S. Infantry, commanding Fort Brown, Tex. In compliance with my agreement with the United States military authorities, I hereby promptly advise you that the grand jury of Cameron County adjourned this day. Have, after investigation, not indicted any of the following-named parties held at Fort Sam Houston to await the action of the civil authorities, and they are therefore entitled to release: Sergt. W. A. Browner, Company C, Twenty-fifth Infantry; Corpl. David Powell, Company B, Twenty-fifth Infantry; Sergt. Geo. Jackson, Company B, Twenty-fifth Infantry; Private J. H. Howard, Company D, Twenty-fifth Infantry; Private James W. Newton, Company C, Twenty-fifth Infantry; Private Oscar W. Reed, Company C, Twenty-fifth Infantry; Corporal Madison, Company C, Twenty-fifth Infantry; Private James G. Gill, Company D, Twenty-fifth Infantry; Sergeant Reed, Corpl. Willie H. Miller, Private C. W. Askew, Company C, Twenty-fifth Infantry; Private John Holloman, Company B, Twenty-fifth Infantry.

STANLEY WELCH,
Judge Twenty-eighth Judicial District of Texas.

HEADQUARTERS DEPARTMENT OF TEXAS,
San Antonio, September 28, 1906.

Official copy respectfully furnished the commanding officer, Fort Sam Houston, Tex., for his information.

By command of Brigadier-General McCaskey:

WALTER L. FINLEY,
Major, Military Secretary.

The following is a reproduction of Judge Welch's writ upon which certain soldiers were arrested and tried for "conspiracy to commit murder:"

THE STATE OF TEXAS, *County of Cameron:*

To the sheriff or any constable of Cameron County, or any State officer, greeting:

You are commanded to arrest Sergt. W. O. Browner, Company C, Twenty-fifth U. S. Infantry; Corpl. David Powell, Company D, Twenty-fifth U. S. Infantry; Sergt. George Jackson, Company B, Twenty-fifth U. S. Infantry; Private J. H. Howard, Company D, Twenty-fifth U. S. Infantry; Private James W.

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Newton, Company C, Twenty-fifth U. S. Infantry; Private Oscar W. Reed, Company C, Twenty-fifth U. S. Infantry; Corpl. Madison, Company C, Twenty-fifth U. S. Infantry; Private James C. Gill, Company D, Twenty-fifth U. S. Infantry; Sergeant Reed, Twenty-fifth U. S. Infantry (sergeant of the guard on the 13th of August, 1906, at Fort Brown, Tex.); Earnest Allison (ex-soldier); Corpl. Willie H. Miller, Twenty-fifth U. S. Infantry; C. W. Askew, private Company C, Twenty-fifth U. S. Infantry, and John Holleman, private Company B, Twenty-fifth U. S. Infantry, to be found in your county, and bring them before me, a judge of the twenty-eighth judicial district of Texas, in said Cameron County, on the 3d day of September, 1906, then and there to answer to the State of Texas for an offense against the laws of said State, to wit, conspiracy to commit murder, of which offense they are accused by written complaint under oath.

Herein fail not, but of this writ make due return, showing how you have executed the same.

Witness my official signature this 23d of August, 1906.

STANLEY WELCH,
Judge Twenty-eighth Judicial District of Texas.

EVIDENCE UPON WHICH SOLDIERS WERE CONVICTED OF RAIDING TOWN, SHOOTING UP CITIZENS, AND BEING IN CONSPIRACY, AS ALLEGED BY WAR DEPARTMENT INVESTIGATORS, TO CONCEAL THE TRUTH AS TO THE NUMBER OF THOSE ENGAGED IN THE SHOOTING.

Major Penrose, in his report, says: "Were it not for the damaging evidence of the empty shells and used clips I should be of the firm belief that none of my men was in any way connected with the crime." (Government report B, p. 12.) The ease with which this "evidence" can be discredited makes it amazing that Major Penrose should have been staggered by it for a moment. In the first place the rifle in common use in that part of Texas will carry the Government cartridge if cartridges are fired one at a time. But any number of cartridges and clips can be picked up on the target practice grounds, and can be secured by the dozen from the men and from the boxes in which a quantity of them are stored in the fort for shipment to be refilled. The Twenty-sixth Infantry had not long since finished target practice at Point Isabel, and this third battalion of the Twenty-fifth Infantry gave away and scattered, as is usual, dozens of clips and cartridges as souvenirs, and allowed citizens and children free access to the boxes of discharged cartridges in the fort. (League affidavit L.)

The cartridges and clips were found at too great a distance from the fort for the soldiers to have got back to roll call.

If Major Penrose's reasoning is correct it is evident that anyone could sprinkle army clips and cartridges along the road and make out a perfect case of rioting against United States soldiers.

In the testimony of citizens (Government report, pp. 21-33), Doctor Combs says, in speaking of the man who was killed, that "the wound was caused by a Springfield rifle, or one of similar penetrating power." The fact is that the rifle used in that part of Texas carries a cartridge just one-eighth of an inch shorter than a Government cartridge, and is of a similar penetrating power. Therefore Mayor Comb's assertion that this wound was necessarily caused by a Government rifle is unwarranted.

CITIZENS' TESTIMONY CONFLICTING AND ABSURD.

Some of the statements of the citizens (none of whom was sworn in the investigation, but simply had their unsworn statements accepted as evidence) contradict each other and the facts with an inconsistency

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which, but for the seriousness of the case, would be ludicrous. For instance (see p. 20, Government report), George W. Randall takes the stand. Questioned, "Tell what you can from the time your attention was first attracted," he answers: "Well, I was sleeping about 10 o'clock and was woke up by pistol shots fired close to my house, about 60 feet from garrison, inside of garrison wall." The fact is that there was no shooting at all until after midnight. This is an illustration of the untrustworthy character of many of the unsworn statements of the citizens, which have been seriously accepted as evidence by the Government representatives.

A number of citizens testify that at first shots were fired to start an alarm, and that then others were fired. This was of course impossible, as upon the first shots the official facts show that Major Penrose was out of his quarters, ordered the call to arms, which was sounded instantly, paraded the men, and had the rolls called.

T. M. McCambell, a citizen, testified that he "saw a whole company shooting" (Government report, p. 22). This statement is grotesquely at variance with the evidence. Some citizens say they saw men shooting pistols; some that they saw Winchesters. Some citizens testified that they saw five men in khaki uniform shooting. Others saw 20, and McCambell, who was gifted with a more fertile imagination than the rest, saw a whole company.

DISCARDED ARMY UNIFORMS WORN BY CITIZENS.

As soon as the Third Battalion arrived at Fort Brown, as they were not going to wear their uniforms and caps, but the khaki uniform and regulation hat, they discarded all their old uniforms, caps, and bandoleers, and threw them out in the rear of the garrison on the dump. Soon afterwards many boys and men were seen wearing the uniforms and caps that had been discarded (League Affidavits L and T). Dozens of citizens wore the khaki uniforms and regulation hat, and the citizens seen the night of the riot, particularly those with rifles, were conspicuous in being dressed similarly to the soldiers.

It is very singular that not one of the citizens' committee could give a logical reason for saying that those doing the shooting were negro soldiers. The night was dark, and some citizens said they knew the shooters were negro soldiers and because of their voices; some because it was English spoken, and others for other absurd reasons which would not stand a minute as evidence of any positive identification. (See statements of citizens, Government report, pp. 21-33.)

SOLDIERS SAID TO HAVE BEEN TORTURED TO EXTORT CONFESSION.

Upon this kind of evidence William Allison, a discharged soldier of the Twenty-fifth, who was bartender at Holliman's saloon, was arrested. It was common barrack talk, originating from a visit made to him in jail by a colored citizen of Brownsville, that he was subjected to torture in order to wring from him information which he was supposed to possess as to the identity of the suspected soldiers, but he knew nothing to confess, as he was ignorant of the identity of anyone who took part in the shooting. The grand jury afterwards freed him for lack of evidence; no bill could be found against him.

Captain McDonald, of the Texas Rangers, was permitted to enter the fort and, according to the statements of the men, was allowed to do anything he pleased in his investigation. As a result 12 men were arrested on some suspicion or other. Warrants were sworn out against them for murder, conspiracy to murder, etc. The arrested soldiers referred to here are mentioned in Judge Welch's order of discharge, previously quoted.

Captain McDonald demanded that the 12 men be turned over to him and the civil authorities of Brownsville. Major Penrose wisely declined, and informed Judge Welch that he would not do so at that time, but that the men would be cared for, subject to the jurisdiction of the civil authorities, and would be delivered to them for trial when their safety could be assured. The 12 men were afterwards taken to Fort Sam Houston and kept as prisoners there until the grand jury failed to indict them, and they were discharged.

Brig. Gen. William S. MacCloskey says (p. 10, Government report) in reference to the selection of these 12 men:

The reason for the selection of these men, or the manner by which their names were produced, is a mystery. As far as is known, there is no evidence that the majority of them were in any way connected with the affair. It seems to have been a dragnet proceedings.

It is amazing that the military authorities of the fort would allow a citizen, however high his civil authority, to have 12 soldiers of the high character of these men placed under arrest and subjected to the humiliation of being kept prisoners for practically three months without one iota of evidence against them. The grand jury, too, of Cameron County was recruited from localities and communities from which judicial impartiality in a case against negroes was difficult to expect.

That the citizens of Brownsville, or a certain element of them, were desirous of making trouble for the soldiers is evident. Sergt. Walker McCurdy (see League Affidavit N) testifies that Private John Cook, who was stationed at outpost No. 2, acting as corporal, reported to him that he had seen civilians taking guns out of a frame building across the street from the barracks about 2 o'clock in the afternoon of August 14, on which day McCurdy was sergeant of the guards of the outpost duty. McCurdy told Cook to report the same to the commanding officer. (No mention in Government report.)

Musician Hoyt Robinson, on the night of August 13, after he was relieved as musician of the guard, about 2 o'clock a. m. saw a number of citizens walking around the fort wall with guns. (See Robinson, League Affidavit F.) (Not mentioned in Government report.)

John H. Hill, in league affidavit (see League Affidavit M), testifies that on August 24, between the hours of 1 a. m. and 2 a. m., while on guard duty, post No. 6, he saw six or more citizens around the fort magazine, and that he sent Private James Sinkler to report the same to Sergeant Harris, commander of the guard. Sinkler returned with Private James Smith, and the three made an investigation. They found magazine lock broken open, and in the door was an iron wedge, where an attempt had been made to pry it open. These facts were reported to the commanding officer of the day. (Not mentioned in Government report.)

All of these affidavits, as well as the trend of evidence, seem to indicate clearly that there was an element of the citizens of Browns-

ville intent upon creating serious trouble, if not actually making an attack upon the colored soldiers. The conclusions and recommendations of the Government investigators are not justified by the record evidence.

The investigators, Blocksom, Garlington, and Lovering, all evidently started upon the assumption that the soldiers were guilty of raiding the town and shooting it up. Blocksom's report shows, and the small number of men of the battalion whom he examined also state, that he was prejudiced, and had already made up his mind on the question, even before his investigation into the facts. Blocksom says (p. 4, Government report): "I shall recommend practical disbandment of the three companies if crime not soon discovered. Many old soldiers know guilty men, and should suffer for concealing act."

This was stated by him before the entire investigation was finished. Illustrating the investigator's intent, for instance, he says, as one of the conclusions resulting from his proposed investigation (p. 8, Government report): "Time from sounding call to arms to the roll call was at least ten minutes, probably longer." Major Penrose and Captain Lyons state officially that it was five minutes (see Government report), and affidavits of men and noncommissioned officers show it was eight minutes at the maximum.

He also ventures this dubious statement: "Sound of call to arms ordered by sergeant of the guard probably too early during the firing to be genuine," whereas the facts and official records show that Musician Robinson sounded the call to arms by order of Major Penrose instantly, and that men fell in line at once and during the firing. Yet Major Blocksom volunteers the assertion that the soldiers jumped the walls, raided the town, fired into the homes of citizens, and, sustaining no injury themselves, returned to the fort, escaping the observation of officers, and answered roll call. To accomplish this feat would be impossible and would require a stretch of the imagination involving a miracle. He closes his report by stating: "It must be confessed the colored soldier is much more aggressive in his attitude on the social equality question than he used to be." Where the social equality question enters this investigation is not very clearly to be seen, and the statement simply shows the extent to which Blocksom's mind was prejudiced by his bringing in an extraneous matter. But Blocksom's report is so full of incredible deductions that merely to peruse it and then the evidence upon which it is based at once shows its glaring absurdity.

GARLINGTON HAD PREJUDGED THE CASE.

The investigation by Inspector-General Garlington, in which he examined only a small number of men out of the entire battalion shows (League Affidavits of Thornton and McCurdy, O, Q, and R, and affidavits of several men examined) that evidently he, too, had already made up his mind that the soldiers were guilty. He restricted them entirely to answering questions relative to what soldiers, if any, were engaged in shooting in the riot, and to matters bearing on the identity of those persons; and he refused to listen to any answers explaining where the soldiers were and the conditions which made

or any details or incidents of the alleged riot (League Affidavit R). In fact, his report shows that even before he started upon his investigations he had already made up his mind that the men of the Third Battalion were guilty of firing upon the town that night, and he merely read to the battalion an order, so he states (p. 110 of the Government report), "giving them an opportunity to give such information as might be within their power that would lead to the detection of the few men guilty of the crime of firing during the night upon citizens of a sleeping town. I informed them that they would be given until 9 o'clock the next day to consider the matter, and that I would be accessible during that limit to any soldier who possessed information and had a desire to make it known."

Of course no soldiers called upon him, because they had no information to give and knew no more of the identity of those who did the firing than did Major Penrose, Captain Macklin, or any of the commissioned officers.

If one should act upon the assumption of Garlington, Blockson, and Lovering, that six or eight soldiers did the firing—an absolutely unwarranted conclusion—there is absolutely no evidence whatever, even from their own directions, that the other men knew anything as to the identity of the soldiers doing the shooting, any more than it could be assumed that the commissioned officers would know.

EVEN THOSE SICK IN HOSPITAL OR LOCKED UP WERE DISCHARGED.

The general affidavits show, and are born out by the Fort records, that a certain number of men were in the hospital, some in the guard-house under lock and key, and some assigned to officers' quarters as help (League affidavit U) and rushed out of the officers' quarters with the officers. The men under lock and key and those sick in bed were supposed to know the identity of those doing the shooting, and were discharged. The men asleep in officers' quarters were supposed to know the identity of those doing the shooting, but the commissioned officers (white) in the same houses were not supposed to know. The privates were discharged; the officers were neither discharged, court-martialed or reprimanded, so far as the Government report shows.

The investigation shows that the men were remarkably cool in the excitement that night. This is probably accounted for by the fact that 80 per cent of them were old campaigners on their third enlistment, and, as their discharges show, the larger portion of them have served in actual battle engagements in Cuba, in the hardest and severest battles in the Philippines, and in the Indian campaigns. The service of the major portion ranges from nine to twenty-six years.

Two incidents occurred which have caused comment. The first was the breaking open of a gunrack in Company C quarters. This was ordered, however, by Major Penrose, said order being given to Sergeant Harley, first sergeant, and Sergeant Browner, in charge of quarters, and is explained in the Browner and Harley League affidavits S and K, admitted by Major Penrose. The second was the scheme of Captain Macklin (white), of Company C, for over one hour and a half throughout the entire affair, and whom, as officer of the day, the men expected to see present. Men were repeatedly sent to his quarters for him; and, being aroused at last, he says he got up

and looked at the clock. Thinking he was being aroused for 6 o'clock and noting that it was 1 o'clock, went back to bed. On being aroused again he got up, went over and asked Captain Lyons what the trouble was all about, and Captain Lyons instructed him to report to the commanding officer. This incident seems to have been given perhaps unwarranted significance in the minds of the men, accustomed as they were to the strictest military discipline, and undoubtedly increased the tension of that night. It can not be ascertained that any official action was taken in regard to Macklin's absence.

SOLDIERS DID NOT CREATE OR PARTICIPATE IN RIOT.

Attached to this report are depositions additional to those transmitted to Washington from Oklahoma City, in the report made by Lieutenant-Colonel Lovering, under date of October 4, 1906. These depositions are marked "A" to "V," inclusive, and attached hereto, with the roll calls and supplementary papers, marked Exhibits "B," "C," and "D." These copies of the roll call in answer to the "call to arms" (accounting for the men) are practically official. They were courteously supplied the league commission by the military authorities at Fort Reno.

The foregoing testimony can produce no other conclusion in the mind of the unbiased investigator than that the riot was not created or participated in by members of Companies B, C, and D of the Third Battalion, Twenty-fifth Infantry, U. S. Army.

The action taken on the part of the Government is based on the opinions only of investigating officers, and is not founded upon the testimony.

The following conclusions are respectfully submitted:

That every member of the battalion was present and accounted for within the fort at and during the time of the riot, except those in Mexico on pass, and whose alibi were established promptly to the satisfaction of the officers commanding and investigating.

That much of the evidence accepted as incriminating soldiers is incompetent, flimsy, and biased, or expressions only of opinions of witnesses.

That the accusation that the soldiers of the battalion must have been aware of the identity of the rioters is an assumption at variance with the facts, and unwarranted by evidence.

That there is fair reason to believe that the commotion on the night in question was created by parties not soldiers, partly to gratify a long harbored hatred against the soldiers, or partly to punish their independence in boycotting the town's "Jim Crow" drinking saloons; and that such resistance as the rioters encountered was offered by unknown persons who were not soldiers from the garrison.

Wherefore your memorialists pray for Congressional investigation by a committee empowered to summon and examine witnesses and report remedial legislation.

Respectfully submitted by order of the executive committee of the Constitution League of the United States.

ANDREW B. HUMPHREY,
Secretary.

GEO. H. WHITE,
Of Counsel.

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EXHIBIT B.

Copy of official roll call of Company B, Twenty-fifth U. S. Infantry, on the night of August 15, 1906, at Fort Brown.

No.	Name.	Rank.	No.	Name.	Rank.
1	Mingo Sanders	First sergeant.	29	Ernest English.....	Private.
2	Walker McCurdy.....	Quartermas- ter-sergeant.	30	Isaac Goolsby.....	Do.
3	James R. Reid	Sergeant.	31	William Harden.....	Do.
4	George Jackson	Do.	22	Charley Hairston.....	Do.
5	Luther T. Thornon	Do.	33	John Hollomon.....	Do.
6	Jones A. Coltr ne	Corporal.	34	James Johnson.....	Do.
7	Edward L. Daniels	Do.	35	Frank Jones	Do.
8	Ray Burdett.....	Do.	36	Henry Jones	Do.
9	Wade H. Watlington	Do.	37	William J. Kernan.....	Do.
10	Anthony Franklin	Do.	38	George Lawson.....	Do.
11	Solomon Johnson	Cook.	39	Willie Lemons.....	Do.
12	Leroy Horn.....	Do.	40	Samuel McGhee.....	Do.
13	Henry Coon.....	Musician.	41	George W. Mitchell.....	Do.
14	William Anderson	Do.	42	Isaiah Raynor.....	Do.
15	James Allen.....	Private.	43	Stansberry Roberts	Do.
16	John B. Anderson	Do.	44	William Smith.....	Do.
17	Battler Bailey.....	Do.	45	Thomas Taylor.....	Do.
18	James Bailey.....	Do.	46	William Thomas.....	Do.
19	Elmer Brown.....	Do.	47	Alexander Walker.....	Do.
20	John Brown.....	Do.	48	Edward Warfield.....	Do.
21	William Brown.....	Do.	49	Julius Wilkins.....	Do.
22	William J. Carlton	Do.	50	Alfred N. Williams.....	Do.
23	Harry Carmichael.....	Do.	51	Brister Williams.....	Do.
24	George Conn.....	Do.	52	Joseph L. Wilson.....	Do.
25	Charles E. Cooper.....	Do.	53	Wade Harris.....	Do.
26	Boyd Conyers.....	Do.	54	Henry Jimerson.....	Do.
27	Lawerence Daniel.....	Do.	55	John Cook.....	Do.
28	Carolina De Saussure.....	Do.	56	Shepard Glenn.....	Do.
			57	Samuel R. Hopkins.....	Do.

EXHIBIT C.

Copy of official roll call of Company C, on the night of August 15, 1906, at Fort Brown.

- | | |
|--|---|
| Acting First Sergeant Harley. | Private James. |
| Quartermaster Sergeant McMurray. | Private Jefferson. |
| Sergeant Carlisle. | Private George Johnson (sleeping at corral). |
| Sergeant Thomas (absent on pass). | Private Edward Johnson (at home with wife in post). |
| Commissary Sergeant Brawner. | Private Kirkpatrick (sick in hospital). |
| Corporal Hill. | Private Lee (absent on pass). |
| Corporal Madison. | Private Lewis. |
| Corporal Miller. | Private Lipscomb. |
| Corporal O'Neil. | Private Logan. |
| Corporal Washington. | Private Mapp. |
| Cook Arvin. | Private McQuire, jr. |
| Cook Grier. | Private Mitchell (on guard). |
| Musician Armstrong. | Private Thomas L. Mosely. |
| Musician Banks. | Private Newton (on guard). |
| Artificer Rudy. | Private Perkins. |
| Private Adair. | Private Perry. |
| Private Askew. | Private Reid. |
| Private Baker. | Private Rogers (on guard). |
| Private Bousler (in confinement). | Private Simmons (sleeping with wife). |
| Private Carter. | Private Sinkler. |
| Private Clisce. | Private C. Smith. |
| Private Collier (on guard). | Private George Smith. |
| Private Dabbs. | Private J. Smith (in confinement). |
| Private Garmen. | Private Streater (sleeping at corral). |
| Private G. W. Gray. | Private Turner. |
| Private J. H. Gray. | Private Webb. |
| Private Harden (sleeping at Lieutenant Higgins' quarters). | Private A. Williams. |
| Private Harris. | Private L. Williams. |
| Private Hawkins. | Private Woodsen. |
| Private Holland. | |

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EXHIBIT D.

Copy of official roll of Company D, Twenty-fifth U. S. Infantry, on the night of August 13, 1906, at Fort Brown.

First Sergeant Israel Harris.	Private Zachariah Sparks.
Quartermaster Sergeant Thomas J. Green.	Private Edward Wickersham.
Sergeant Jacob Frazier.	Private Dorsie Willis.
Sergeant Walter Adams.	Private Alexander Ash.
Sergeant Jerry E. Reeves.	Private Luther Cotton.
Sergeant Geo. Thomas (on pass).	Private Chester Gerrard.
Corporal David Powell.	Private Taylor Stoudemyer.
Corporal Albert Roland.	Private Edward Lee.
Corporal Temple Thornton.	Private Henry Barclay.
Corporal Winter Washington.	Private Henry T. W. Brown.
Corporal James H. Ballard.	Private Richard Crooks.
Musician Hoytt Robinson.	Private Elias Gant.
Musician Joseph Jones.	Private John Green.
Cook Charles Dade.	Private George W. Hall.
Cook Robert Williams.	Private Charles Hawkins (on pass).
Artificer George W. Newton.	Private John A. Jackson.
Private Sam. M. Battle.	Private Walter Johnson.
Private John Butler.	Private John R. Jones.
Private Strawder Darnell.	Private William R. Jones.
Private James C. Gill.	Private Wesley Mapp.
Private Alonzo Haley.	Private James Newton.
Private Barney Harris.	Private Len Reeves.
Private Joseph H. Howard.	Private Henry Robinson.
Private Benjamin F. Johnson.	Private Samuel E. Scott.
Private Charles Jones.	Private John Slow.
Private William E. Jones.	Private William Van Hook.
Private Edward Jordan.	Private Samuel Wheeler.
Private William A. Matthews.	Private James Duncan.
Private Elmer Peters.	Private William H. Birdsong.
Private Edward Robinson.	Private Henry H. Davis.
Private Robert L. Rogan.	Private John Henry.
Private Joseph Shanks.	Private Edward Johnson.

AFFIDAVIT A.

Frank J. Liscomb, of Company C, relative to Newton affair.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, Frank J. Liscomb, of the age of 25 years, of Company C, Twenty-fifth Infantry, U. S. Army, who deposes and says that he served for a period of two years in the Army; that he was enlisted from Birmingham, Ala.; says that about 9 o'clock on about August 5, he was walking down the street with Private James W. Newton, of the same company, and upon passing, one white man whose name is unknown to him—afterwards this affiant was informed by Capt. Edgar E. Machlin that said white citizen was Custom Officer Tate—struck said Newton on the head with a revolver, knocking him down as he attempted to pass, and threatened to blow out brains of said Newton.

FRANK J. LISCOMB.

Subscribed and sworn to before me this 23d day of November, A. D., 1906.

E. J. BARBON, *Notary Public.*

Commission expires July 20, 1906.

AFFIDAVIT B.

Combs's declaration.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, Wilbert Voshelle, of the age of 30 years, who deposes and says he was at Fort Brown, August 13, 1906, and was in the employ of the United States Government, and at that time was corral boss.

That on the evening of the 13th, between 5 and 6 o'clock, he was going home in the city of Brownsville, Tex., from the corral, and as he was passing between the hospital and the post exchange he saw Major Penrose, Dr, Frederick Combs, mayor of Brownsville, Tex., and Quarantine Officer Evans, talking together, and he heard the conversation as follows:

Doctor Combs said to Major Penrose, "If there is not an arrest made between this and 11 o'clock, every enlisted man seen on the street will be shot."

He did not hear the reply made, but knows that an order was afterwards issued that every man should be in post by 8 o'clock, and that orders were issued to round up the men in Brownsville, Tex.

Affiant further says that as he was aroused by the shots at the place in town where he was sleeping that night; he hastily dressed and went down directly to the corral at the post.

That he did not see a single man on the street nor the soldiers at post; he met only two policemen and four citizens with arms who were talking about soldiers, and that further, after he arrived at the corral, he heard about six shots fired in town again. Affiant afterwards went to bed at corral.

WILBERT VOSHELLE.

Subscribed and sworn to before me this 24th day of November, 1906.
My commission expires July 20, 1908.

AFFIDAVIT C.

General affidavit—Penrose order—8 o'clock.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me, the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, the following-named members of the Twenty-fifth Infantry, stationed at Fort Brown, Tex., who depose and say that they were stationed at Fort Brown on the so-called night of the 13th, 1906, at the time of the so-called riot, and that on the said date, in the evening, order was issued that all men should be in post at 8 o'clock in the evening of said date, and the further order was issued that all men on pass that would be in town over the said hour by reason of the said pass having been issued should be brought in:

Temple Thornton, John R. Jones, Len Reeves, John A. Jackson, Barney Harris, Dorsie Willis, Winter Washington, Elias Grant, Albert Holand, Alonzo Haley, Joseph Shanks, Sam M. Battle, Charles Dade, Henry Boney, Robert Williams (mark made by reason of afflicted hand), Samuel Wheeler, Richard Crooks, Thomas J. Green, Jerry E. Reeves, sergeant Company D; George W. McMurray, Perry Claco, Henry W. Brown, Elmer Peters, Wesley Mapp, Robert L. Rogan, John Green, James H. Ballard, Walter Banks, corporal, C; Clifford Adair, Solomon P. O'Neil, corporal; Zachariah Sparks, George W. Howe, Joseph Jones, Strowder Darnell, William Van Houk, William R. Jones, Hoytt Robinson, Edward Jordon, George W. Newton, John Slow, Henry Robinson, Robert L. Collier, Mack Garman.

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AFFIDAVIT D.

Samuel Wheeler, Company D—News of the shooting.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me, the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, one Corpl. Samuel Wheeler, who deposes and says that he is a member of Company D, Twenty-fifth U. S. Infantry, and that he has served in the United States Army for a period of nineteen years, and has been in Indian campaigns, in Cuba, battle of San Juan Hill, July 1, while in Ninth Cavalry, and Philippines, and that he was garrisoned at Fort Brown August 13, 1906. That upon said date while assigned as corporal of the guard, about 7 o'clock, Captain Macklin, officer of the day, gave him an order to take two men of his relief and patrol a certain portion of the town and notify every man that he was to be in post by 8 o'clock whether out on pass or not, and that all men who would not return to bring them in under arrest. Affiant said that he complied with said order by taking out Private Joseph Howd, of Company B, first relief, and turned back a number of men and sent in others, and reported the same to Captain Macklin, asking him as to the cause of such an order. Captain Macklin replied: "People are trying, it seems like, to give us some trouble. A lady has reported that she was insulted; that she was troubled by some of the soldiers, but we do not believe anything of the kind. I will see the commanding officers and have this matter thoroughly investigated to-morrow."

Affiant further deposes and says that between 12.20 and 12.30 on the night of August 13, while he was on watch as corporal of the guard, he heard two shots, then a fusillade of mixed arms shot about 100 yards from the guardhouse. Affiant has certificate of expert proficiency and marksmanship in judging distances of firing and marksmanship, and when the call to arms was sounded he got the guard outside and remained at the guardhouse with the keys over the prisoners.

As far as affiant knows, and to his best belief and knowledge, no firing was done by the soldiers of the Twenty-fifth Infantry at Fort Brown.

SAMUEL WHEELER.

Subscribed and sworn to before me this 24th day of November, 1906.

E. J. BARBON.

My commission expires July 20, 1908.

AFFIDAVIT E.

Charles Hairston, Company B, relating to meeting Penrose and being assigned as sentinel of officers' quarters.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me, the undersigned authority, duly authorized to administer oaths in and for the county and Territory aforesaid, one Charles Hairston, member of Company B, Twenty-fifth U. S. Infantry, and of the age of 23 years, enlisting from Muskogee, Ind. T., who deposes and says that he was at Fort Brown, Tex., garrison on August 13, 1906, and was assigned as sentinel of post 3, around officers' quarters, and that about the hour of 11 o'clock Captain Macklin, after taking reports, went toward town, and after staying ten or fifteen minutes, came back and went upstairs to bed; that, when firing commenced at about the hour of 12.20 o'clock on said night, Major Penrose rushed out of his quarters, and that affiant and Major Penrose ordered affiant to tell Robinson to sound "call to arms," which he did. Affiant afterwards in about one hour aroused Captain Macklin, after "four" calls at intervals, and remained on post.

Subscribed and sworn to before me this 24th day of November, 1906.

CHARLEY HAIRSTON.

Subscribed and sworn to before me this 24th day of November, 1906.

E. J. BARBON,
Notary Public.

My commission expired July 20, 1908.

AFFIDAVIT F.

Hoytt Robinson, Company D, relative to sounding call of arms on night of August 13.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me, the undersigned authority, duly authorized to administer oaths in and for the county and Territory aforesaid, Hoytt Robinson, Company D, musician, who deposes and says that he has served in the United States Army five years, and that he was garrisoned at Fort Brown on the 13th day of August. That on the night of the said date he was detailed as musician of the guard, and was assigned to tower of the guard; that about 12.20 o'clock he was aroused by Sergeant Reed, commander of the guard, and told to sound the alarm of "call to arms;" that while he was sounding the "call to arms" the firing was still going on furiously, and it was back in the town of Brownsville, Tex., from the wall of the post, and was some distance from post of guards, and that about the hour, or near thereto, of 7 o'clock Captain Macklin, officer of the day, came to guardhouse and sent two men, Corporal Wheeler, Company D, and Corporal Franklin, Company B, out in town with instructions to bring in every man in town and tell him he must not be out of post after 8 o'clock that night, August 13, 1906; and Captain Macklin sent Private Ash, Company D, to the wharf at Brownsville, Tex., to intercept any men going over to Matamoras, and tell any returning to proceed to the fort at once, as no man was to be outside of said post after 8 o'clock. Private Ash asked if he should take his gun, to which Captain Macklin replied, "No."

Private Ash further alleged to the deponent that upon his return he was repeatedly insulted and abused while in town. Affiant further deposes and says that after he was relieved at 2 o'clock a. m., August 14, 1906, he saw a number of citizens walking around the fort walls with guns and Winchesters. As far as affiant knows and believes there was no shooting done by the soldiers in post.

HOYTT ROBINSON.

Subscribed and sworn to before me this 24th day of November, 1906.

E. J. BARBON, *Notary Public.*

My commission expires July 20, 1906.

AFFIDAVIT G.

General Affidavit.—Penrose Order—8 o'clock.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me, the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, the following named members of the Twenty-fifth Infantry, stationed at Fort Brown, Tex., who depose and say that they were stationed at Fort Brown on the so-called night of the 13th, 1906, at the time of the so-called riot, and that on the said date, in the evening, order was issued that all men should be in post at 8 o'clock in the evening of said date, and the further order was issued that all men on pass that would be in town over the said hour by reason of the said pass having been issued should be brought in:

Temple Thornton, John R. Jones, Len Reeves, John A. Jackson, Barney Harris, Dorsie Willis, Winter Washington, Elise Gant, Albert Holand, Alonzo Haley, Joseph Shanks, Sam M. Battle, Charles Dade, Henry Boney, Robert Williams (mark made by reason of afflicted hand), Samuel Wheeler, Richard Crooks, Thomas J. Green, Jerry E. Reeves, sergeant Company D, George W. McMurray, Perry Cisco, Henry W. Brown, Elmer Peters, Walter Banks, corporal, C, Clifford Adair, Solomon P. O'Neil, Walter Banks, corporal, C; Clifford Adair, Solomon P. O'Neil, corporal, Zacharia Sparks, George W. Howe, Joseph Jones, Strowder Darnell, William Van Houk, William R. Jones, Hoytt Robinson, Edward Jordon, George W. Newton, John Slow, Henry Robinson, Robert L. Collier, Mack Garman.

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AFFIDAVIT H.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me, the undersigned, duly authorized to administer oaths in and for the county and Territory aforesaid, Private George Harris, of Company C, Twenty-fifth U. S. Infantry, of the age of 32 years, having served for a period of eleven years in the United States service, having enlisted last from Fort Niobrara, Nebr., he deposes and says:

That he was stationed at the garrison at Fort Brown, Brownsville, Tex., on August 13, 1906; that upon the evening of said date, while in barracks sleeping, about the hour 12.15 a. m., he heard firing, then a call to arms; arising, he hastily dressed, secured his gun from the rack, and fell in line at command of First Sergeant Holly.

Affiant further alleges and says that after marching around fort for a while, under command of Lieutenant Grier, they were placed on guard duty and remained until about 9 o'clock, August 14, 1906, until relieved by Company B.

That not one man passed through lines while they were on guard. That when the guns were inspected while on post next morning none were found fired. That as far as his knowledge and belief no firing was engaged in by any of our soldiers of the post.

Affiant doth further say in support of this affidavit that the time used in between the call to arms arousing him from bed and the calling of the company's roll, to which he answered, was about eight minutes, and that firing was still going on while roll was being called.

GEORGE W. HARRIS.

Subscribed and sworn to before me this 23d day of November, A. D. 1906.

E. T. BARBOUR, *Notary Public.*

Commission expires July 20, 1906.

Personally appeared before me at the same time and place the following-named members of Company C, Twenty-fifth Infantry, and who, having read the foregoing affidavit of George Harris, do say upon their oaths that the facts and matters therein contained are true, and that they were present and personally knew that said conditions did then and there exist as herein above alleged, and do make the same their statement.

Lewis Williams, Frank J. Lipscomb, Leartis Webb, Joseph Rogers, Thomas Jefferson, West Logan, Perry Cisco, Clifford Adams, Mark Garner, Solomon P. O'Neil, corporal, George Grier Cook, Samuel W. Harley, sergeant, James T. Harden, James Woodson, George Smith, Newton Carlisle, sergeant, Joseph W. Gray, Robert Collier, Walter Banks, James E. Armstrong, Charles E. Rudy, Erasmus T. Dabbs, George W. Gray, John H. Hill, corporal.

AFFIDAVIT I.

Israel Harris and members of Company D relative to company conditions.

AFFIDAVIT I.

Israel Harris and members of Company D, relative to company conditions.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me the undersigned authority, duly authorized to administer oaths in and for the county and Territory aforesaid, Israel Harris, who alleges and says:

That his name is Israel Harris, of the age of 35 years, member of Company D, Twenty-fifth U. S. Infantry; has served for a period of eleven years and six months, and has seen active campaign in Cuba and the Philippines, and at El Caney.

That he was garrisoned at Fort Brown, Tex., on August 13, 1906, and that at night he was aroused by reports of firing, then a call to arms; hastily dressing,

CERTAIN COMPANIES OF TWENTY-FIFTH U. S. INFANTRY. 25

he secured his arms from the rack and fell in line at command of First Sergt. Jacob Fraser, and at command of Captain Lyons they deployed, with skirmish lines alongside of the wall; the roll was called, to which he answered.

That the time from the falling in line and the calling of the roll was about eight minutes. Affiant further says that company then marched through Brownsville, Tex., and that aside from meeting citizens with guns and policemen and crowds the town was quiet and orderly, seeing no shooting, nor wounded or killed.

That said company then marched back to garrison and laid around on grass about an hour, when Captain Macklin, officer of the day, came up, and Company C was ordered on guard duty and Company D to turn in rifles and go to bed. Rifles were locked up as usual; next morning, when examined, they were found unfired.

Affiant further says that according to his knowledge no firing was done by the soldiers or members of his company, the same being D, all of whose gun racks were locked until opened on the call to arms.

ISRAEL HARRIS.

Sworn to before me this 24th day of November, 1906.

[SEAL.]

E. T. BARBOUR, *Notary Public.*

Expires July 20, 1908.

FORT RENO, OKLA., *County of Canadian, ss:*

Personally appeared before me at the time and place the following-named members of Company D, Twenty-fifth Infantry, and who having read the foregoing affidavit of Israel Harris, do say upon their oaths that the facts and matter therein contained are true, and that they were present and personally know that said conditions did exist as herein above alleged and do make the same as their affidavit.

Thomas J. Green, John R. Jones, Barney Harris, Elmer Peters, Wesley Mapp, James Newton, Robert La Rogan, John Green, P. Willis, Elias Gant, Winter Washington, Alonzo Haley, Charles Hawkins, Albert Roland, Joseph Shanks, Zachariah Sparks, John Slow, Jacob Frazer, first sergeant; Lew Reeves, John A. Jackson, Henry W. Brown, George W. Hall, Joseph Jones, Strowder Darnell, Charles Dada, William Van Houk, Henry Barklay, William R. Jones, Robert Williams, Edward Jordon, Richard Crooka, George E. Newton, Jerry E. Reeves, Henry Robinson, James H. Ballard.

AFFIDAVIT J.

M. S. Sanders, Company B—Sergeant examined relative to August 13.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me the undersigned, duly authorized to administer oaths in and for the county and Territory aforesaid, one Sergt. M. S. Sanders, a member of Company B, Twenty-fifth U. S. Infantry, and he deposes and says that he is 50 years old, that he has served for a period of twenty-five years, six months, and seven days, being a noncommissioned officer for a period of thirteen years and a sergeant for a period of six years; that he has served in Cuba and the Philippines—two months in Cuba, and was continually on the firing line. That upon the 25th day of June, about 9 or 10 miles from Siboney in Cuba, Theodore Roosevelt came to him, and at his special request his company shared their supply of hard tack with his command. That in the Philippine campaign he charged up Comanche Mountain as first duty sergeant, North Luzon, on January 5, 1900.

That on January 21, 1901, he captured first sergeant, corporal, 1 Mauser, 2 Remingtons near Cabangan; that on March 14 he captured 14 rifles and 1 saber near Wilkens camp.

Affiant doth further say that he was garrisoned at Fort Brown, Tex., on the 13th day of August, 1906, and a member of Company B, Twenty-fifth U. S. Infantry. That on August 13, 1906, near 4 o'clock, Lieut. George C. Lawson, company commander, said to him, "Sergeant, are there any men in town on pass?" to which he replied, "No, sir; no men on pass." Lieutenant Lawson said, "Send me two responsible men." Affiant obeyed said order and sent

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Sergt. Walker McCurdy and Corporal Waddington. Said officer Lawson told the men to go all over town, and if they saw any of Company B's men to tell them to report at quarters at once.

Said officer asked affiant further to publish on retreat that no man of the company would be allowed in town after 8 o'clock.

Affiant further says that on the evening of the 13th of August, 1906, he retired to his quarters, about 500 yards east of Company B's quarters; that he was aroused about 12.30 by his wife, and that he heard firing, which, from his long army experience, he knew that there were mixed arms being fired. He at once rushed to his company's quarters, gave the order to fall in and proceeded to call the roll. The time when he was first aroused and the calling of the roll consumed about ten minutes. That on roll call only 4 men were absent out of 57, and that the men absent were Elmer Brown, detailed at Major Penrose's stables as help; John Brown, assistant baker at post bakehouse; William Smith, who was upstairs in quarters asleep; Alfred N. Williams, on duty quartermaster corral; that as he called the roll the firing was still going on downtown. After roll call he reported the results to company commander Lawson, and company was ordered around rear of quarters, where orders were issued to take position of defense to support C on walls. Company remained in that position about one hour; orders were then issued to form company and call roll again, which he did, and men answered to roll call except two men—Elmer Brown and John Brown. Affiant then received orders from Major Penrose to send an officer after them. He sent Corporal Harris with the two men, which made the company roll complete and all men accounted for. Company was dismissed and ordered to remain on until further orders. Company then to put away rifles and go to bed. Next morning at 7 o'clock a. m., at drill, rifles were inspected and company then relieved Company C, Twenty-fifth Infantry.

Affiant further says, according to his best knowledge and belief, that every gun was intact and locked the previous evening. Affiant further says that the men of Company B who were called before Inspector-General Garlington were only 7 men out of the 57 in the company, and their names are as follows, to wit: First Sergt. M. S. Sanders, First Sergt. Luther T. Thornton, Q. M. Sergt. Walker McCurdy, Corpl. Wade El. Waddington, and Privates John Cook, Chas. W. Johnson, and Julius Wilkins.

Affiant further says that majority of company are now on their second and third enlistment, and has about 15 men on long enlistment and service in the United States Army, and that this affiant has only one year and five months before retiring.

MINGO SANDERS.

Subscribed and sworn to before me this 24th day of November, 1906.

E. T. BARBOUR, Notary Public.

AFFIDAVIT K.

Samuel W. Harley, first sergeant Company C, relative to his company.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, personally appearing before me Sergt. Samuel W. Harley, of Company C, Twenty-fifth U. S. Infantry, deposes and says—

That he has served for a period of sixteen years in the United States Army, having served in the Sioux Indian campaign in the years 1890 and 1891, Sioux Indians at Pine Ridge and other engagements, and the campaign in Cuba, being wounded there in the battle of El Caney, July 1, 1898, and also served in the war in the Philippines.

That he was garrisoned at Fort Brown, Tex., on August 13, 1906, and that he was acting sergeant of Company C, Twenty-fifth Infantry; that about the hour of 12.15 o'clock a. m., August 14, or better known as the night of August 13, 1906, he was aroused by firing and hearing the call to arms, and dressed quickly as possible. He met noncommissioned officer Sergeant Browner in charge of quarters; Sergeant Browner asked him, "Shall I open the racks," to which he

replied, "Wait for orders." He then met Corporal Washington, who informed him that the call to arms had been sounded. He then instructed Corporal Washington to inform Sergeant Browner to let the men have their guns and get downstairs as quickly as possible. Some of the men were already downstairs without their guns, and he sent them back for their rifles. Major Penrose asked why they did not have their guns, and a member of the company replied that they could not get their guns from the racks as they could not get in them. Major Penrose ordered them to get their guns if they had to break open the gunracks. Sergeant Browner opened as fast as he could the racks in the dark, but the men broke open one rack. He reported to Lieutenant Grier, who took charge of the company at once.

Affiant further says that he started the roll call, but as the gas lamps were giving such bad lights Major Penrose ordered Lieutenant Grier to count the men and move to the rear of the quarters, where they were lined along stone wall fence in position of defense, where they remained one hour. Captain Macklin then assumed command, marched the men in front of quarters, and affiant called roll; all men were present and accounted for except 2, Sergeant Thomas and Private Lee, out of total of 57 men in the company. The men not accounted for on roll were on pass. They then marched back and assumed a position on guard and remained on duty until about 9 o'clock.

Affiant further alleges that upon examination of guns at 7.30 a. m., August 14, 1906, guns were found intact and unfired. In the investigation conducted by General Garlington, at Fort Reno, only 7 men were examined by him, and are as follows, being 7 in number; Sergeants Turner, Holly, McMurray, Thomas, and Privates Lee, Edward Johnson, and George Harris.

That according to affiant's belief and knowledge no member of the company was engaged in any shooting or firing and men were all accounted for on count and roll call, but he was not permitted to enter into any details or explanation of any of these facts at the investigation that General Garlington conducted.

SAMUEL W. HARLEY.

Subscribed and sworn to before me this 24th day of November, 1906.

[SEAL.]

E. T. BARBOUR, *Notary Public*.

My commission expires July 20, 1908.

AFFIDAVIT L.

Jacob Fraser, sergeant Company D, relative to conditions, caps and uniforms being thrown away—Cartridges and clips easy to get.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me, the undersigned duly authorized to administer oaths in and for the county and Territory aforesaid, one Sergt. Jacob Fraser, Company D, of the Twenty-sixth U. S. Infantry, who deposes and says: That he is 28 years and 6 months of age, and has served in the United States Army fourteen years two months and four days, and was in active engagements in Cuba, being assigned to the advance line to cut wire at El Caney, and in the Philippines. He had command of a little town with 30 men under him, and was in command for one year and three months, and captured one of the outlaws of that country, who had a reward on his head of \$2,000. He never received the reward or a medal for this act, but he turned the man over to Captain Pardee, who was battalion commander. The man captured was Kwan ba Siener, who hanged later on the island.

He received an honorable discharge from his company on the 19th day of September, 1906, and reenlisted September 21, 1906.

That he was garrisoned at Fort Brown, Tex., on August 13, 1906, and upon the night of said day he was asleep at quarters with his wife about 400 yards from soldiers' quarters. About 12.25 he was aroused by hearing firing; dressing quickly, he rushed to Company D's quarters, where he met Captain Lyons. He ordered him to get the men in line, and after getting the men in line, Captain Lyons ordered him to get a lantern and call the roll. He did so, and reported to his commander, and all were present and accounted for. Then the captain ordered the company to assemble and be marched through the town.

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As they were coming around by the jail he saw two or three policemen going into the jail yard. Immediately after that the company met the mayor of the town, and the mayor called and asked them who they were, to which Captain Lyons replied, "It is Captain Lyons," and the mayor said that there had been one man killed and the chief of police wounded, and a horse killed, and he requested Captain Lyons to come and go around. The company all followed with Captain Lyons in command thinking that he was going to show them the man killed. He led the company up the street where a big crowd was assembled, and all we saw was one citizen standing up with the crowd with a Winchester; some one of the men calling Captain Lyons attention, said, "There is a man with a gun." The mayor replied, "This is one of the officers of the law." Captain Lyons ordered the men to stay in the ranks and keep cool. The company then marched back to quarters, and was allowed to fall out of ranks and to lie down on the grass, but not to leave ranks until we had further orders.

In about an hour Captain Mucklin (the officer of the day) came and asked Captain Lyons what was going on. Captain Lyons answered and said, "Go over and report to the commanding officer," and I heard Captain Mucklin say that he did not know that anything was going on and that this was the first that he had heard of it. Company D was then ordered to put their guns in the rack and lock up their noncommissioned officer in charge of the quarters, and it was executed.

Affiant states that the conditions that existed at the time of their arrival at Fort Brown are as follows: That all the old uniforms—i. e., coats, pants, and caps, were discarded and thrown upon the dump pile back of the quarters, and the Mexican and white boys from 7 on up, and the men as well, would come and gather up the old clothes that were thrown away, and you could see some of them upon the streets of Brownsville, Tex., with uniforms on that they picked up, and to a person not knowing, you would think they were soldiers; and the stuff that was thrown away had the name of each soldier marked thereon, and in that way it was an easy matter to get a man's name by seeing the mark on his clothing that they picked up. Just before our going to Fort Brown, there was a target practice held by the Twenty-sixth Infantry, about 30 miles from Fort Brown, which was selected for the same by said soldiers of the Twenty-sixth Infantry, who were stationed at Fort Brown, and they had to march through the town of Brownsville, Tex., in order to get to said place. It was easy for the shells to have been gotten hold of by the people, as you could find upon our arrival shells lying all around the garrison.

I do further say as first sergeant of Company D that I was not examined by General Garlington on trip of investigation of the riot at Fort Brown; and affiant further says that all the charges that have been made against him and the soldiers, that he had not seen anything that would make him have the idea that the soldiers did do any of the shooting; as aforesaid, the mayor of said town never did show us the man that he claimed was killed, but only accompanied us about one-half block and stopped with the crowd herein referred to, but afterwards came up into the garrison before the company was dismissed.

I do further say that I do not believe that any soldier then stationed at Fort Brown had anything to do with the shooting that was done.

JACOB FRAZER.

Subscribed and sworn to before me this 24th day of November, 1906.

E. T. BARBOUR, *Notary Public.*

My commission expires July 26, 1906.

AFFIDAVIT M.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, one Corpl. John Hill, of the age of 29 years, a member of Company C, Twenty-fifth U. S. Infantry, who deposes and says, that on the 14th day of August, 1906, between the hours of 1 a. m. and 2 a. m., at Fort Brown, Tex., he was stationed in the rear of post No. 3, and that he saw five or more citizens run from a dark place near the stone wall toward the town in front of Company D quarters, which was at that time patrolling the town of Brownsville, and that he at once

OBTAIN COMPANIES OF TWENTY-FIFTH U. S. INFANTRY. 29

reported the same to Captain Lyons; and that he has served for a period of eight years in the United States Army. Affiant doth further say that on August 24, between the hours of 1 a. m. and 2 a. m., while on guard duty, post No. 5, he saw six or more citizens around the magazine, and that he sent Private James Sinkler to report the same to Sergeant Harris, commander of the guards, and said James Sinkler returned with Private James Smith, who made an investigation and found magazine lock broken open and in the door was an iron wedge where attempt had been made to pry said door open. Said facts were reported to commanding officer of day and quartermaster-sergeant.

JOHN H. HILL

Subscribed and sworn to before me this 24th day of November, 1906.

E. T. BARBOUR, *Notary Public.*

My commission expires July 20, 1906.

AFFIDAVIT N.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, Sergt. Walker McCurdy, of Company B, Twenty-fifth Infantry, who served seventeen years in the United States Army; and he deposes and says that he was sergeant of the guards of the outpost duty on August 14, 1906, and upon said day about the hour of 2 o'clock in the afternoon, Private John Cook, who was stationed at outpost No. 2, acting as corporal, reported to him that he had seen civilians taking guns out of a frame building across the street from the barracks.

Affiant told him to report the same to the commanding officer. The orders that the affiant had received from the commanding officer that in case any of his guards were fired upon that day they should do nothing but retreat to the parade ground, caused affiant not to fire upon said citizens.

WALKER MCCURDY, *Sergeant.*

Subscribed and sworn to before me this 24th day of November, 1906.

E. T. BARBOUR,
Notary Public.

My commission expires July 20, 1906.

AFFIDAVIT O.

Luther T. Thornton, sergeant, relative to General Garlington's unwillingness to hear testimony tending to exculpate soldiers.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me, the undersigned, duly authorized to administer oaths in and for the county and Territory aforesaid, who deposes and says that his name is Luther L. Thornton, sergeant Company B; that he has been in the service for a period of eight years in the United States Army, enlisting at Fort Niobrara, Nebr.; that he is of the age 29 years. Affiant further says that upon the investigation and examination as conducted by one General Garlington into the so-called difficulty alleged to have taken place between the soldiers and the citizens at Fort Brownsville, Tex., held at Fort Reno, Okla., affiant says that the said General Garlington would not permit this affiant to explain anything relative to conditions, to wit, arm racks, their conditions, location of guards, of number of men answering roll call in the post, the location of his comrades, or the material facts relative to the night in question; but requested that he only replied to questions, thus: "Do you know anything about the men who did the firing?" and similar questions along that line, to which he replied "No," that he knew nothing that would lead to the identity of anyone.

LUTHER F. THORNTON.

Subscribed and sworn to before me this 23d day of November, A. D. 1906.

E. J. BARBOUR,
Notary Public.

Commission expires July 20, 1906.

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AFFIDAVIT P.

Companies B, C, and D, relative to General Garlington's unwillingness to hear testimony tending to exculpate soldiers.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me the undersigned persons, who being first duly sworn, depose and say that they were duly enlisted members of Company B, Twenty-fifth U. S. Infantry, and they appeared before General Garlington, who was engaged in an inquiry relative to an alleged fracas between soldiers and citizens at Brownsville Tex., said inquiry being held at Fort Reno, Okla. Deponents say that said General Garlington restricted them to answering questions relative to what soldiers, if any, were engaged in shooting in the riot and to matters bearing on the identity of these persons; but that he refused to listen to any answers explaining where deponents were, and the conditions which made it impossible for them to have knowledge of the identity of the rioters, or any details or incident of the alleged riot.

George W. Harris, Julius Wilkins, Walker McCurdy, John A. Jackson, Charles Dade, Thomas J. Green, sergeant, Samuel Wheeler, Hoytt Robinson, musician.

Subscribed and sworn to before me this 23d day of November, 1906.

E. J. BARLOW, *Notary Public.*

Commission expires July 20, 1908.

AFFIDAVIT Q.

Walter McCurdy, Company B, questioned by General Garlington.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid one Sergt. Walker McCurdy, of the age of 42 years, a member of Company B, of the Twenty-fifth Infantry, and who deposes and says that he has served in the expeditions of the Spanish-American war, Fifth Army Corps, against Santiago, in the Philippines at Laloma, Comazi, Subig; that he has served seventeen years in the United States Army. At the time that General Garlington made his investigation at Fort Reno, Okla., he asked him the question, "Now, Sergeant, don't you know that your people are always sticking themselves into some place where they are not wanted?" And he replied that he knew nothing about it; that he only followed orders.

Sergt. WALKER McCURDY.

Subscribed and sworn to before me this 24th day of November, 1906.

E. J. BARBON, *Notary Public.*

My commission expires July 20, 1908.

AFFIDAVIT R.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me, the undersigned, duly authorized to administer oaths in and for the county and Territory aforesaid, Luther T. Thornton, who deposes and says that upon being examined by Inspector-General Garlington on October—as to whether he knew who did any firing on the night of August 13, 1906, after a few questions made the following statement:

"Now, sergeant, I am a Southern man myself, and, naturally, what I speak I speak from experience. Now, have you noticed that in the South when the colored people get into trouble with the white people it was a class that

placed themselves in a position of authority where they had no business to be, and when a colored man commits a crime he is protected by all the rest of his people?"

Affiant replied that the only experience he had had with the Southern white people was while in the Army, having been born North, but that their attitude toward colored soldiers was one of disrespect for the man wearing the uniform, and not a charitable feeling for the man of color.

LUTHER E. THORNTON.

Subscribed and sworn to before me this 23d day of November, 1906.

E. T. BARBOUR, *Notary Public.*

My commission expires July 20, 1908.

AFFIDAVIT S.

W. O'Browner, Company C, aroused by firing.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me, the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, one Sergt. Darby W. O'Browner, of Company C, Twenty-fifth U. S. Infantry, who deposes and says that he has been in the United States Army for a period of fourteen years, in Cuba, El Caney, and Santiago; in the Philippines April, 1901, to August 1, 1902.

That on August 18 he was garrisoned at Fort Brown and was detailed in charge of quarters Company C; between 12 and 12.20 he was aroused by firing which sounded like it was a distance over the brick wall in town, and that he rushed downstairs to find his first sergeant, and received orders as to opening up the gun racks. He found Sergeant Harley, who said, "Wait for orders;" while standing there he heard Major Penrose say, "Open those gun racks and fall in line promptly, and if you can not find noncommissioned officer in charge of quarters, break them open and fall in line promptly." He rushed upstairs and began to open gun racks, and one that he could not get open was broken open and he found all of the guns intact. The men ran promptly and fell in line, and the roll was called and the men were all present and accounted for; he lighted a lantern, and found all of the gun racks intact except the one broken open. He remained in charge of quarters.

Affiant further deposes and says that to his best knowledge no firearms were gone or used by any members of the Twenty-fifth U. S. Infantry at Fort Brown prior to call at arms as stated. He means by members of Company C.

DARBY W. O'BROWNER.

Subscribed and sworn to before me this 24th day of November, 1906.

E. T. BARBOUR, *Notary Public.*

My commission expires July 20, 1908.

AFFIDAVIT T.

Relative to citizens wearing uniforms.

TERRITORY OF OKLAHOMA, *County of Canadian, ss:*

Personally appeared before me, the undersigned, duly authorized to administer oaths in and for the county and territory aforesaid, the following-named persons, who certify that they were members of the Twenty-fifth U. S. Infantry, stationed at Fort Brown, Tex.

Affiants allege that soon after arrival at said fort they discarded all their old uniform, such as caps and uniform, and threw the same out in the rear of the garrison, and that many boys and men soon thereafter were seen by us wearing the said uniform that had been discarded, and that it was a common sight to see the same as herein alleged.

82 CERTAIN COMPANIES OF TWENTY-FIFTH U. S. INFANTRY.

Affiants further allege that during their stay at Fort Brown they did not wear any caps, but all wore hats.

Thomas J. Green; Temple Thornton, corporal, Company D; John R. Jones, Barney Harris, Henry W. Brown, James Newton, Winter Washington, Alonso Haley, Joseph Shank, Zachariah Sparks, George W. Hall, Joseph Jones, Charles Dade, Strowder Darnell, Henry Borse, William Van Heek, Robert Williams (mark made by reason of afflicted right hand), Edward Jordan; Jacob Frazer, first sergeant, Company D; Len Reeves, John A. Jackson, Elmer Peters, Robert L. Rogan, Dorris Willis, Elias Gant, Albert Holand, Richard Crooke, George W. Newton, John Slow; Jerry E. Reeves, sergeant, Company D, Twenty-fifth Infantry; Henry Robinson, Walter Johnson, James H. Ballard; Luther T. Thornton, sergeant, Company B, Twenty-fifth Infantry; William R. Jones, Samuel Wheeler.

AFFIDAVIT U.

Robert Turner, Company C, wakes Lieutenant Lawson on hearing the firing.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me, the undersigned authority duly authorized to administer oaths, Robert Turner, private Company C, Twenty-fifth Infantry, who deposes and says that he is of the age of 29 years, having served for a period of eight years in the United States Army; affiant states that he was stationed at Fort Brown, Tex., and that he was on the 13th day of August, 1906, and upon the night in question, asleep across the garrison in Lieutenant Hay's quarters, being detailed as officers' "help."

When he heard firing he woke Lieut. C. C. Lawson, and they went over to Company C's barracks at the same time, together.

ROBERT TURNER.

Subscribed and sworn to before me this 23d day of November, 1906.

E. T. BARBOUR, Notary Public.

My commission expires July 20, 1908.

AFFIDAVIT V.

Samuel M. Battle, Company D, patrol sent out to call men in.

TERRITORY OF OKLAHOMA, County of Canadian, ss:

Personally appeared before me, the undersigned authority duly authorized to administer oaths in and for the county and Territory aforesaid, one Samuel L. Battle, member of Company D, Twenty-fifth U. S. Infantry, who deposes and says that he has been in the service of the United States Army for a period of seven years, and that upon August 13, 1906, he was garrisoned at Fort Brown, and that upon the night of said date he was detailed as a member of the guard. That about the hour of 7 o'clock a patrol was sent out by Captain Macklin to bring in all men in the town, and that about 12.15, while off post duty, in guard-house asleep, he was aroused by Commander of the Guards Reed, of Company B, and that after he had been aroused, Musician Robinson sounded a call to arms; after which he was sent by commander of the guard to post 2. They met Major Penrose, and he sent Corporal Vincent to his quarters as guard. The firing was still going on while I was en route.

Affiant further says that to his best belief and knowledge, there were no soldiers who took part in the shooting, and that he has no knowledge of the identity of those doing the shooting, but, according to his best belief, it was not any of the soldiers in the post of the Twenty-fifth U. S. Colored Infantry.

SAM M. BATTLE.

Subscribed and sworn to before me this 24th day of November, 1906.

E. T. BARBOUR,
Notary Public.

My commission expires July 20, 1908.