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Final Report of Judge Advocate General Joseph Holt

Report to Secretary of War E. M. Stanton on December 1, 1864

-“In the case recently referred to me of Brigadier General E. A. Paine, lately in command of the District of Western Kentucky and of his subordinate officers, I have examined the mass of evidence submitted and have the honor to report thereon as follows:

Brigadier General Paine was assigned to the command of the district named on or about July 19<sup>th</sup> last, and continued to exercise such command until relieved by Brigadier General Meredith on the 12<sup>th</sup> of September. Upon his removal, a committee of investigation consisting of Brigadier General S. S. Fry, U. S. V., and Colonel John M. Brown, 45<sup>th</sup> Kentucky Mounted Infantry, was appointed by Major General Burbridge, commanding military district of Kentucky to examine the conduct of affairs during his administration.

The report of this committee dated September last, has been reviewed in connection with nearly two hundred affidavits and statements which are presented as the basis of its conclusion. In it there are charged upon General Paine a series of offences, principal of which are as follows:

The use of harsh violent and brutal language in his intercourse with citizens; making illegal and arbitrary arrests; deposing civil officers; ordering the seizure and confiscation of the property of loyal persons; extorting money levying unjust and oppressive assessments, taxes and fees; imposing burdensome restrictions upon trade and excluding loyal persons from trade privileges; banishing and expatriating loyal citizens; permitting wanton injury to be done to private property, especially in the town of Mayfield and impressing aged and sick persons to work upon the fortifications at that place; and causing parties to be executed without trial and under questionable circumstances of right.”

-“The committee further present the names of Colonel W. W. McChesney, 134<sup>th</sup> Illinois Volunteers, commanding post at Mayfield; Colonel H. W. Barry, 8<sup>th</sup> U.S. Colored Heavy Artillery, commanding post at Paducah; Major H. Bartling, of the same regiment Provost Marshal of the military district; Captain R. H. Hall, Provost Marshal 1<sup>st</sup> Congressional District of Kentucky; and Phelps Paine, Assistant Adjutant General, a son of General Paine; as chargeable with malfeasance in office and sundry acts of an unbecoming character.”

-“In order to determine how far the conclusions so emphatically declared are justified by facts, it will be necessary to refer to the mass of evidence which has been filed in their support. This evidence consists chiefly of affidavits sworn before General Fry, or Colonel Brown, in September last. A few of these are the statements of officers and enlisted men but by far the greatest part are offered by citizens of Western Kentucky. A large portion are presented in connection with claims for relief in cases of alleged injustice and oppression. These affidavits and statements refer to great variety of acts on the part of General Paine and his subordinates which will now be considered under separate heads.”

- Charges

I. Use of abusive and unbecoming language and harsh treatment of individuals

- “The affidavits set forth the language used by General Paine upon a variety of occasions which goes to show that he had formed a very low estimate of the loyalty of the residents of

Western Kentucky, and that he did not hesitate to express to them his opinion in the most emphatic terms.”

-“General Paine habitually threatened with shooting, persons charged with disloyalty...”

- “Further he is reported as having used disrespectful and denunciating language toward his superior officers.”

-“In this connection it may be added that on two occasions General Paine declined to comply with the instructions of Major General Burbridge but not in a disrespectful manner.”

- “Paine is charged further with having subjected individuals in sundry cases to harsh and cruel personal treatment.”

- The conclusion of General Holt was that those who filed claims against Paine may have questionable loyalties to the Union and that Paine had some justification to use abusive language, threats and harsh treatment. In regards to disobeying orders, Holt found the charges to be false.

#### II. Arrests

-“It is complained that General Paine placed in arrest and confined for sometime without good grounds a number of loyal citizens.”

-Holt found that those arrested and confined were either “Sothern sympathizers” or known to be disloyal. Holt wrote “No proof of his loyalty is furnished” and “further investigation would be necessary to ascertain whether Milan suffered the extreme hardship of which he complains...”

#### III. Banishment of citizens

-“A number of citizens were banished to Canada by General Paine on account of their alleged active disloyalty.”

-“In the order issued in regard to their banishment it was specified that they should be permitted to take with them wearing apparel, jewelry, pictures, tableware and ‘a box of such choice articles as they might select’. They were required to pay the expenses of their transportation and the freight of their baggage. An officer was appointed to ‘make an inventory of their personal effects not taken with them and safely store the same’.”

-“A number of affidavits are presented to the effect that these persons, instead of being disloyal, were ‘good’ or ‘strong’ Union and loyal men.”

-“...it seems altogether improbable that General Paine should have taken this most summary action in these cases, unless evidence of disloyalty abundantly satisfactory to his own mind had existed.”

#### IV. Seizures and confiscations

-“On July 28<sup>th</sup> last, General Paine issued his General Order No. 8 in which it was enjoined that there after ‘all property or stores captured from rebels or rebel sympathizers should be turned over to the department to which they belonged’. The departments to which certain stores were to be delivered were then enumerated, and it was added that ‘commanding officers of scouting parties and expeditions would be held responsible that all captured property was properly turned over’. No other order in regard to seizures or captures of property has been presented; and it is impossible therefore to ascertain under what instructions of his superior, if any, the seizures alluded to were made by General Paine, or what specific directions were given by him, if any, regulating the mode in which they were to be conducted.”

-“In reference to the circumstances connected with these seizures a large number of affidavits have been introduced; but the official evidence in regard thereto seems not to be of a complete character.”

-“...General Paine publically asserted that it was his intention to oblige the rebel sympathizers in that part of the country to reimburse the union men for property which they had lost at the hands of Forrest.”

-“It is in proof however, that certain horses, mules, buggies, etc. were returned, as well as all the whiskey and considerable amount of salt.”

-“If the testimony, which is no doubt to great extent derived from disloyal sources can be derived from disloyal sources, can be relied upon, the troops on this expedition were chargeable with criminal marauding and articles of property were carried away or destroyed by them, of which no account has been rendered. How far subordinate officers commanding scouting parties, or the men composing them, may have abused their trust is not made to appear.”

-“Another list of seizures, however of even a more irregular character than those which have been described are charged by the testimony upon the troops immediately under the command of Colonel McChesney at Mayfield; and for these this officer would seem to be primarily responsible.”

-“It is probable however, that a very considerable portion were not persons of decided union sentiments and as their statements are generally made in connection with claims for relief or reimbursement presented to the committee, their testimony is liable to the same criticism, especially in regard to the amounts of their alleged losses, as that of any interested parties.”

-“By an order of August 6<sup>th</sup> General Paine appoints Captain R. H. Hall (Provost Marshal of the Congressional District) superintendent of rents, and instructs him to ‘carefully inform himself as to the loyalty of all persons occupying buildings, outlots, plantations, etc.’ at Paducah. Those who are not found to be undoubted union men he is ordered to notify to pay their rent to the Post Quartermaster every two months...”

-“...the fact of disloyalty was ascertained by Captain Hall assisted by a committee consisting of Major Bartling (Provost Marshal) and Messrs. Bradshaw, Kidd, Redd, Lyons, J. Morgan and J.E.D. Morgan (citizens).”

-“...General Paine reserved to himself the right of testing the loyalty of individuals, and in several cases released parties who had been entered in the list as disloyal, from the obligation of paying their rents to the government.”

-“It is shown that three rooms of the Commercial Bank building of Paducah were taken for District Headquarters and were continuously occupied by certain staff officers. The house of Cope was also used as a residence by the Assistant [Post] Master, and the officers of the 119<sup>th</sup> Colored Regiment were quartered in the house of Woolfolk, who had been banished. Both Cope and the officers of the bank were adjudged by General Paine to be disloyal. The General also allowed J. T. Bolinger, a Union citizen, to take possession of the store of Horne, banished to Canada; and Woodward, the Military Superintendent of Trade, to occupy the warehouse of T. M. Hale, also adjudged disloyal...”

-“It was at Mayfield, however, that the occupation of private dwellings, etc. was principally complained of. A large proportion of the buildings in this town were appropriated as quarters for the troops, and it is represented in the affidavits, as well as in the report of Captain Grant, that this occupation caused great discomfort and distress to the inhabitants and was demoralizing to the soldiers.”

-“As has been stated, the post of Mayfield, during the greater part of General Paine’s administration, was under the command of Colonel McChesney, 132<sup>nd</sup> Illinois Volunteers, an officer against whom sundry grave charges are preferred in the course of the testimony, and many of the evils complained of in the conduct of affairs at that post are no doubt primarily

attributed to his neglect of duty as commanding officer. Whether in billeting the troops of his command in private houses, he was acting under the instructions of General Paine, is not made to appear. No doubt the a large proportion of the citizens, whose dwellings were thus used as quarters, were liable to the imputation of disloyalty.’

#### V. Restrictions on trade and business

-“One of the principal grounds of complaint against General Paine was that he closed the stores of a number of merchants of Paducah claiming to be loyal citizens, invoiced their goods and placed them under military charge. In some instances the goods were removed and the stores rented; in others the stores were after awhile allowed to be reopened the owners in two cases being obliged to pay a considerable sum, as an assessment, upon receiving back their keys; and in one case the owner was required to pay the assessment and at the same time sell out his stock and, as it is alleged at a heavy loss.’

-“The action taken against three of the firms named, Ashbrook, Ryan & Co., Prince & Dodd and Jones & Co. seems to have been based principally upon violation of trade regulations, consisting in the first two instances in buying or selling sulphur without special permit, and in the other, in importing fire arms without proper authority. The former insist that they were ignorant of the regulation; the latter represents that he had been given to understand that as he had once sent away the very arms, to avoid the raid of Forrest, he did not need a special permit to bring them back again.”

-“In the other cases the proceedings were taken on account of the alleged disloyalty of the individuals and firms named. These assert their loyalty and in some cases introduce other citizens to establish it; a decided impression however, is derived from the whole testimony that they were either disloyal or disaffected, or at least that they were regarded as such, and not without grounds, by General Paine who, before taking the action described, had caused a list of loyal merchants of the city to be compiled for him by union residents, in whom he had confidence.”

-“A further and general restriction upon trade was imposed by General Paine in his general order, no. 7, of July 26<sup>th</sup> in which he prohibited all banks in the District of West Kentucky, except those of Cairo, from paying out any moneys or making any transfers or deposits, unless by special authority from his headquarters. Every bank check, before it could be paid, was required to be endorsed as ‘approved’ by him or some person appointed to act in his stead. At first the approvals were made by him personally; subsequently, under his direction, by T. M. Redd a union citizen and surveyor of the post. The latter deposes that he approved 138 checks during a period of fifteen days, charging 50 cents for each approval and receiving in all about \$50. No fee was charged in the case of soldiers, soldier’s wives, etc. or of school and charitable funds. He states that he was instructed to approve a check only where the drawer was unconditionally loyal, and that of the checks presented only ‘one or two’ were refused to be approved by him. It may be conceived, therefore, that the restriction did not operate with much hardship upon individuals.”

-“The order however was the cause of general complaint on the part of the banks, who formally addressed to General Paine an appeal for a modification of its terms. This appeal was considered and the modification most urgently pressed was granted, the banks being allowed to draw upon each other and settle their mutual balances without approval of their checks being required.”

#### VI. Levying assessments, fees, etc.

-“It appears to have been a prominent feature in General Paine’s plan of administration to impose assessments upon the disloyal residents of his district, as one of the means of reimbursing union citizens for losses incurred at the hands of the rebels, and especially on the occasion of Forrest’s raid in March last. There is found among the papers a draft of an order addressed to General Prince commanding at Columbus, requiring him to assess the property both real and personal, of all citizens of Hickman County, not reputed to be undoubted union men... In ascertaining the loyalty of the owner, the opinion of the persons themselves disloyal is not to be taken into consideration. To facilitate this assessment, General Paine also caused the poll books and assessor’s rolls to be taken from the possession of the county clerk.”

-“A similar plan was adopted at Paducah. Three union citizens were appointed by General Paine as commissioners for assessing and collecting upon and from disloyal residents. These commissioners assessed large sums upon sundry citizens of Paducah and vicinity, proportioning the amount to the value of the property in each case... These assessments, however, though notified were never paid, were never collected, on account of the change which took place in the command of the district.”

-“Independently of the gross assessment, General Paine also aimed to raise a further sum for the same general purpose and particularly for the relief of union refugees, by requiring a tax of 25 percent advalorem to be paid on all tobacco and \$125 on every bale of cotton desired to be shipped from Paducah, wherever the same was owned by, or had been purchased from, disloyal persons. The enforcement of this tax was assigned to J. E. Woodward, appointed by General Paine... He collected in all, the sum of \$4135 which he paid over to the Provost Marshal and which is fully accounted for by the latter.”

-“Woodward was allowed to collect also a fee of \$2 (increased at one time to \$10) on every hogshead of tobacco and bale of cotton, (so owned, etc.) upon its shipment, as a compensation for his personal services in enforcing the assessment. His fees, thus accumulated, amounted as he states to about \$1050.”

-“Many of those who were required to pay it claim in their affidavits that they were union and loyal men. They were, however, adjudged to be otherwise and some testimony to the effect that individuals were disloyal in incidentally presented.”

-“Sundry small sums for certain permits were exacted and certain fines were enforced by General Paine as military commander, which remain to be noticed. Thus a regular fee of ten cents was charged for every package of household goods, etc. permitted to be taken outside the lines of the post of Paducah, and one dollar on every barrel of whiskey allowed to be conveyed. Moreover the gross sum of about \$2200 is reported to have been collected for fines required to be paid by the keepers of drinking saloons, prostitutes and persons charged with drunkenness or disorderly conduct. The ‘military saloon tax’, so called, is shown to have been from \$10 to \$15 per month; a tax also of \$5 upon each sale was required of parties selling mules, unless they could establish that they were loyal citizens... The amounts accumulated formed Provost Marshal’s Fund, which was disbursed principally for the expenses of the Provost Marshal’s establishment.

-“It is to be added that at Mayfield Colonel McChesney imposed certain fees for permits to keep dogs and to carry groceries, barber shops, etc...”

#### VII. Furnishing government transportation to private individuals

-“That General Paine in one instance furnished a government steamer to J. F. Bolinger of Paducah for the purpose of transporting his cotton and tobacco appeared to be quite clearly established by the testimony.”

-“...Bolinger paying to the captain the freight of which it may be observed no account whatever appears in evidence. At Columbus a guard of 75 soldiers came on board, whether furnished by General Paine’s authority does not fully appear, who also rendered service in loading the cotton, etc.”

-“This is the only instance in which it is testified that government transportation was furnished by General Paine to a private individual. Bradley, however, adds in his disposition that since the occasion in question, his boat has been similarly used under similar military orders.”

-“The entire testimony in regard to this matter of complaint, though exparte in its character, especially calls for some satisfactory explanation on the part of General Paine.”

#### VIII. Deposing civil officers

-“It is shown that General Paine prohibited certain civil officers from exercising their official functions, and required others to resign on account of their disloyalty. Of the former were G. A. Flurnoy and Blaxton Small, the judge and clerk of the county court of McCracken County; and Moore, postmaster at Columbus, who was banished to Canada. Of the latter were G. W. Ratcliffe, Sheriff of McCracken County and A. B. Kinkead, a city councilman of Paducah. It is claimed by the two last that they were loyal men, and a representation to the same effect, is presented in behalf of Moore. Major Bartling, however, testifies that Kinkead has always been disloyal, and Moore in similarly alluded to in the course of the testimony. Small only states in his deposition that he informed General Paine that he was ‘not a rebel’ and Flourney says that on being informed by the General, that he could not act as judge unless he would produce the voucher of Mess. Woodward, Morgan, Redd & Bolinger (Union citizens) to his loyalty, he replied only that he ‘refused to give any vouchers till his loyalty was impeached’.”

-“There is found among the papers an informal order from General Paine to General Prince, commanding at Columbus requiring the latter to depose judges, sheriffs, justices of the peace, constables, and other civil officers, who are not ‘undoubted Union men’; but it is not shown what actions if any was taken upon this order. It is further specified that W. H. Miller, the post master at Mayfield, was temporarily deposed, on account of his disloyalty by Colonel McChesney.”

#### IX. Executions

-“It is set forth in the testimony that four individuals – Hess, Kesterton, Matheny and Taylor – were executed by the order of General Paine as guerillas, and as uniformly represented, without trial. These men were shot at Paducah on or about September 6<sup>th</sup> last. No particulars whatever in regard to their crime or crimes are presented, while it is cited as a matter of complaint against General Paine, that he did not bring them to trial little or nothing is stated in their favor, and of Kesterton it is testified that he was ‘undoubtedly a very bad man’. The character of Hess and his companions is illustrated by an order, or public notice, issued by General Paine in July in which he declared to the citizens of the district that ‘if another Union man was killed by bushwhackers or rebels, five rebel sympathizers should share the same fate’; and alluding to the executions about to transpire, of Captain Hess, as he is styled he (the General) announces that ‘if any man is killed in retaliation, five rebels will be shot in return’.”

-“It is shown that one other individual named Eli Enoch was shot as a guerilla by a detachment (Captain Gregory’s Company) of General Paine’s command, but whether his execution was expressly ordered by General Paine does not appear. It is testified that the soldiers stated at the time that they were obeying orders and that they had been ordered to shoot all guerillas.”

-“It is to be added that J. E. Woodward, the only witness who expresses an opinion upon General Paine’s course in regard to these executions says – ‘I think his treatment of guerillas has done more good than any other commander who has ever been here’.”

X. Misappropriation of property or money and extortion

-“Although these offenses are alleged to have been committed by General Paine, yet, the general testimony falls short of showing that he was chargeable therewith, except so far as he may be deemed responsible in certain cases for the acts of subordinates.”

-“There is no proof that General Paine appropriated to his own use any portion of any of the funds raised by him by assessments, fines, etc. and these funds appear to generally fully accounted for.”

-“Upon all the evidence, therefore, there appears good ground for adopting the conclusion expressed by Woodward in his testimony when he says – ‘I do not think he (General Paine) has taken away from this town a dollar that did not belong to him’.”

-“...the assessment imposed by him upon Moss can only be regarded as a summary punishment inflicted in the exercise of his discretion as a military commander.”

-“Beside this (Moss case) no instance of alleged extortion is presented by the testimony, which is not more appropriately considered under the head of some other ground of complaint against General Paine.’

Major Harry Bartling (charges)

- I. “That he appropriated to his own use money, etc. found in stores upon their being closed by General Paine.”
  - a. “While this officer correctly debits himself in his relief fund account with sundry amounts of cash taken by him from some of the stores in question, yet he fails to account for other sums alleged to have been seized by him.”
- II. “That he appropriated to his own use five gallons of whiskey the property of D. Smedley”
  - a. “...Major Bartling seized it and refused to give it up, representing that he and his friends would drink it.”
- III. “That he accepted bribes or compensation from merchants in return for using his influence to have their stores released.”
  - a. “It most fully appears that the stores of Ashbrook, Ryan & Co. and Prince & Dodd, which had been closed, were released principally by the mediation of Honorable Lucien Anderson, who acted as their attorney and by the efforts in their behalf of Major Bartling. Mr. Anderson received from the parties a fee in the one case of \$1500 and the other of \$400, both of which he equally divided with Bartling.”
  - b. “...the amounts received would seem to be in direct violation of the statute of June 11, 1864 ch. 119, which enacts that it shall be a misdemeanor for a member of Congress or other officer of the government to receive compensation for services rendered in relation to any proceeding or claim in which the United States is interested and provides a severe punishment to be imposed upon the offender.”
  - c. “Other charges are presented against this officer, but are not deemed supported by satisfactory proof. He is understood to have been placed in arrest and is advised that he be brought to trial by Court Martial for the acts above set forth.”

Colonel W. W. McChesney

- I. Receiving bribes
  - a. "It is shown by the affidavits of J. W. Rives and Mr. Hall that Colonel McChesney received from the one a hogshead of tobacco as the price of a shipping permit and from the other a hogshead and two boxes of manufactured tobacco for the privilege of 'working up' and afterwards removing stock of this article. In each case the bribe was first suggested by Colonel McChesney, himself, and indeed he appears to have rather exacted than accepted the price in each case."
- II. Appropriation to his own use of private and government property
  - a. "Private James Fanning, 134<sup>th</sup> Illinois Volunteers, testifies that on September 6<sup>th</sup> last, or short time before Colonel McChesney was relieved of his command, he packed in a box, for the Colonel and by his order, a large number of articles ... (items taken from residents of Mayfield)."
  - b. "It (the box) is not shown whether it was forwarded or not, but the act of appropriation appears to have been complete."
- III. Corrupt practices in regard to citizens impressed to work on the fortifications
  - a. "From the affidavits furnished, however, it does not appear that the sums required were less than \$10 nor more than \$50. Individual instances of oppression may have occurred, such however are not very apparent nor are any cases of exemption discovered in which actual bribery was successfully resorted to."
- IV. Failure to account for public moneys received by him
  - a. "It is impossible to ascertain how Colonel McChesney may have failed to account for public moneys in his hands."
  - b. "It is recommended that a charge be framed against him based upon the supposed deficit in his accounts setting forth the amount of the alleged appropriation in a sum sufficient to include the entire probable loss to the U. S."
  - c. "It is to be added in regard to this officer that his conduct of his command appears to have been one of the most objectionable features which characterized the administration of the district. The principal depredations and irregular seizures which have been alluded to were committed by his troops who through his neglect of discipline or carelessness are shown, if the witnesses can be credited, to have been in sundry instances lawless, rude and violent".
  - d. "Except his own boast that he had put to death seven men without trial, no evidence (unless Enoch was one of them) is furnished in regard to executions ordered by him. It is understood that he is now in arrest and has not yet brought to trial. It is advised that he be arraigned as soon as possible, before a court martial upon the specific charges which have been enumerated as sustained by the present proof, as well as for allowing marauding, etc. by his soldiers in cases where evidence of the offense may be found most readily attainable at the place of trial."

Colonel W.W. Barry

-It is charged against this officer that when commanding the post at Paducah, he ordered and compelled Norton & Bros. bankers at that place to exchange \$100 in 'greenbacks' presented by a Mrs. Herr for the same amount in gold. It is stated in Norton's affidavit that this woman had no gold on deposit in the bank and moreover that she was a disreputable character."



-“It would seem that this officer should be brought to trial for the act first mentioned. A further investigation would be necessary before charges could properly be framed for his other alleged offenses.”

Captain Phelps Paine

-...seizing bedding, etc. at the dwelling house of Scott Ford, citizen, and appropriating it to his own use; and receiving from the Relief Fund in the hands of Major Bartling the sum of \$100 which he expended in furnishing his room – are the principal acts of this officer which call for an investigation by Court Martial.”

-“It is to be noticed also that some of the witnesses charge him with the use of abusive and unbecoming language.”

Captain R. H. Hall

-“E. Rehkopf testifies that having been notified by this officer to give up his house for government purposes, he offered to present him (Hall) with a set of harness worth \$65 provided the latter would not eject him from his premises and that Hall accepted the harness and allowed him to remain without molestation.”

-“Francis Grief states that Hall arrested him on the ground that his son in law had stolen horses while engaged in a raid with the enemy, that the charge was false and that he was released from arrest by Colonel Hicks.”

-“It does not appear upon what authority Captain Hall acted in these cases, nor are sufficient particulars presented to enable a judgment to be formed in regard to their merits.”

-“It is deposed further by M. L. Mayes that Hall by the use of threats compelled him to pay the sum of \$150 for a house claimed by Hall to have been stolen by a son-in-law of Mayes who was in the rebel service.”

-“... Captain Hall should be framed upon these statements with a view to a thorough investigation of the question of his criminality.”

Lieutenant L. B. Church

-“Major Bartling mentions in his testimony that this officer was paid by him from the Relief Fund the sum of \$120, for what use does not appear and that this payment was made upon the order of General Paine. It should be investigated whether this amount was received by Lieutenant Church to his own use and whether General Paine actually permitted the appropriation to be made.

R. W. Humble

-“J. L. Dunbar states in his affidavit that he was required by this officer to pay him a fee of \$1 for a certificate of exemption on account of disability, upon his being impressed to work upon the fortifications...”

## Conclusion

-“Upon a careful review of the whole testimony both that which illustrates the general conduct of affairs in the District of Western Kentucky, as well as that which purports to present the specific acts of General Paine and his subordinates, it is conceived that the violent denunciations of that officer and of his administration, pronounced in the reports and communications from which extracts have been quoted are in the main hasty and ill considered, and evidence rather the presence of passion than a clear judgment.

The investigation which has been pursued seems to have partaken of the nature of a prosecution of the individual rather than of a temperate and impartial survey of his

official acts; and the view of the singularly *ex parte* character of the evidence adduced, it becomes most difficult to arrive at a satisfactory opinion in regard to his policy and proceedings.

Moreover at the outset of the inquiry much embarrassment is experienced because of the absence of specific information upon certain points essential to be understood. The actual state of affairs in the district when General Paine entered the upon the command; the character of the inhabitants for loyalty or disloyalty; the part taken by them at the period of Forrest's raid of March last; the instructions of his superior or superiors under which the General assumed the command; and even the original order placing him in charge of the district – all these subjects and circumstances are wholly neglected to be treated of in the investigation.

Nevertheless from all the testimony taken together the plan of action proposed to himself by General Paine is readily made out – viz – to afford protection and encouragement to union and loyal men and recompense them in some degree for their losses and sacrifices during the war; and do this at the expense of those who had been conspicuous for their disloyalty and support of the rebellion or who had been characterized by a disaffected alienation and an indifference to the efforts of the government in suppressing the public enemy.

In carrying out this plan, which is conceived to have been a just and laudable one, General Paine had to deal principally with the two classes last named. While with the first of these his measures could hardly have been too severe; by the other class his standard of loyalty was found exacting and oppressive and it is possible that he may in certain cases have done injustice to parties calling themselves loyal and really much more emancipated than this class from infurious prejudices against the policy of the government by confounding them with the matter.

But through his proceedings were stern and summary, he is seen to have generally adopted precautions to make himself acquainted with the character and antecedents of persons before taking action against them, and also to have been ready to right such parties as may have suffered injustice from the operation of his policy. He procured lists of disloyal citizens to be furnished him by those union residents in whom he had most confidence, and before levying assessments upon property, he sought reliable means of information as to its value and circumstances. Where the property of persons of undoubted union sentiments had been seized, he ordered it to be returned to them, and where his restrictions upon trade weighed too heavily upon individuals or the business community, he modified or removed them. He is shown in some cases to have released parties from arrest and from sentence of banishment upon the solicitation of loyal citizens; and to union men, who, as he expressed it, had 'borne the burden and heat of the day', he aimed to confine the trade privileges and permits which he had it in his power to confer. Although prevented by the duration of his command from carrying out largely his plan of relief, he is shown to have disbursed considerable sums, (in one case \$500 to a single individual) for the benefit of refugees and unfortunate union people, as well as of the indigent families of soldiers.

In regard to the system of assessments conceived by General Paine, it is proper to remark that it has been pursued by various commanders since the commencement of the rebellion, and as it is understood, is at this time being carried out in localities both in Missouri and Kentucky. As it manifestly accords with the popular sentiment of justice

and right, and would appear to have met with the general acquiescence of the executive, it may be regarded as a measure fully sanctioned by the necessities of the war and indeed as a part of its common law.

Notwithstanding the accusations to that effect which have been quoted, the evidence fails to show that General Paine has appropriated to his own use a dollar of the public money, although large sums were constantly within his reach and control. As to his policy in regard to the summary execution of guerillas it is to be said that it is fully justified by the experience of the war.

In passing from the intense and emphatic expressions of condemnation of General Paine and his administration, where he is charged with cruelty, barbarity, tyranny and extortion, and is denounced as a monster, a robber, and a murderer – to a careful consideration of the testimony produced, it is a fact which divests these expressions of a great part of their intended weight, that apart from the depositions of Woodward and perhaps two or three others the evidence proceeds either from persons personally hostile to General Paine or from parties who are interested in applications for specific pecuniary or other relief, or from those who, notwithstanding their assertions of loyalty may well be suspected of being either disloyal or disaffected to the government.

Moreover it is impossible to pass justly upon the conduct of this officer without considering a further fact to which the committee wholly omit even to allude; viz – that on 19<sup>th</sup> of July last, the day on which General Paine entered upon his command, the President of the United States issued his proclamation declaring that martial law should prevail throughout the state of Kentucky.

The occasion for this declaration is fully set forth in the Proclamation and consists in the facts – to quote the language employed – that ‘many citizens of the State of Kentucky have joined the forces of the insurgents, and such insurgents have on several occasions, entered the said State in large force, and not without aid and comfort furnished by disaffected and disloyal citizens of the United States residing therein, have not only greatly disturbed the public peace, but have overborne the civil authorities and made flagrant civil war, destroying property and life in various parts of the state’. It is specified also, as a further ground for action of the President, that it has been ‘made known’ to him ‘by the officers commanding the national armies, that combinations have been found in the said State with a purpose of inciting rebel forces to renew the said operations of civil war within the said State, and thereby to embarrass the United States armies now operating in the States of Virginia and Georgia and even to endanger their safety’.

While this public proceeding on the part of the Executive could not properly be referred to as authorizing acts of excess or wanton wrong, it might, at the same time justify a military commander in summary and stringent measures, which in the absence of martial law, might be deemed extraordinary and perhaps oppressive. In passing therefore, upon the administration of General Paine, it is necessary to have constantly in view, the presence in his command of a large body of those ‘disaffected and disloyal citizens’ whose practice throughout the State had alone given occasion for the issuing of the proclamation, and who in a multitude of ways had long been affording aid and encouragement to the public enemy even more efficiently than if serving with his armies in the field.

Martial law, according to Binet (pg. 14) is ‘the application of military government – the government of force – to persons and property within the scope of it according to

the laws and usages of war – to the exclusion of the municipal government, in all respects where the latter would impair the efficiency of military law or military action’.

Halleck (International Law pg. 373) says – ‘military law exists only in a time of war and originates in military necessity. It derives no authority from the civil law nor assistance from civil tribunals, for it overrules, suspends and replaces both. It is from its very nature an arbitrary power’. The truest definition however is that which is given by the Duke of Wellington, (Hansard; see Benet 10) where he holds that martial law is ‘the will of the general who commands the army’.

It will thus be perceived that General Paine, in entering upon his command, became necessarily invested with vast powers, the exercise of which was to be regulated by his will alone, subject only to the limitations named in the proclamation. His proceedings therefore as a military commander, can be properly criticized and reviewed only in connection with the action of the President in investing him with the extraordinary authority.

While upon the whole, the conclusion is arrived that the official reports of the committee and Captain Grant do not present an impartial view of General Paine’s conduct of affairs in Western Kentucky, it is not to be forgotten that there has been adduced considerable apparently reliable testimony which goes to fix upon that commander acts, which if committed as alleged, were unbecoming or arbitrary, and most reprehensible, and for which he should be called to account. Among these may be referred to, his furnishing government transportation to a private individual; his disposition of the case of Moss; his disrespectful and contumelious expressions in regard to Major General Halleck; his arbitrarily compelling the payment of their checks to Birmingham and Allard; his refusal to interfere to prevent extortion by Captain Hall in the case of Mayes; his severe treatment of Milan, Conn, Brackin, etc. and his requiring the latter to pay the costs, etc. and withdraw the suit mentioned in the testimony; his allowing marauding and pillaging by his soldiers; his apparent sufferance of the injurious measures of Colonel McChesney, and sundry other acts which have been criticized therein.

But under all the circumstances of the case, it is conceived that it would be unjust to pronounce finally against his administration in the absence of the facts which have specified as material to forming a fair judgment, and without giving this officer himself a hearing.

It is to be observed, in view of the large powers which the proclamation of martial law conferred upon him, that the principal object of inquiry after all be the motives by which his will was guided and controlled. Of these motives, of the circumstances which impelled them, and of the lights which assisted him in acting upon them, he alone can best speak, and it is but right that the government should forbear any formal condemnation of an administration so responsible and so beset with difficulties and dangers as was his, until he shall be allowed an opportunity to speak frankly and fully for himself.

It is recommended therefore that General Paine be served with a copy of this report and be called upon to communicate to the Secretary of War the circumstances, including the specific instructions, if any, under which he assumed command of the District of Western Kentucky; the rationale and particulars of his system of action, and the sources of information and means of knowledge upon which he proceeded; and at the

same time that he should be especially directed to offer explanations of his conduct in the instances of offense which herein commented upon as apparently supported by competent testimony.

It is advised that his full compliance with these requirements be followed by prompt and final action in his case.”

Explanations of E. A. Paine (received by the Secretary of War on December 24, 1864)

-“Explanations of Brigadier General E. A. Paine, recently in command of the Western District of Kentucky required by the report of Brigadier General Joseph Holt, Judge Advocate General of the United States.”

-Orders #1

Major General W. T. Sherman

U. S. Volunteers

Commanding Military Division of the Mississippi via Chattanooga, Tenn.

Sir,

The President of the United States directs that the assessments which have for some time past been suspended in Western Kentucky be again put in operation.

The President also directs that Brigadier General E. A. Paine, now at Tullahoma, be assigned to command in Western Kentucky.

I am sir, very respectfully your obedient servant,

E. D. Townsend

Assistant Adjutant General

(endorsed at Nashville on June 25, 1864)

-Orders #2

Headquarters Military Division of the Mississippi

Nashville, Tenn. June 24<sup>th</sup> 1864

By telegraph from near Kenesaw June 24, 1864

General Webster,

Transfer General Paine to the Department of the Tennessee with orders to proceed to Columbus, and report to General Washburn, subject to the instructions of the President. He will make orders as to General Paine.

W. T. Sherman (signed)

Orders #3

Headquarters Military Division of the Mississippi

Nashville, Tenn. June 25<sup>th</sup> 1864

Special Orders No. 90

By direction of the President of the United States, Brigadier General Eleazer Paine, U. S. Volunteers, is relieved from duty in the Department of the Cumberland and assigned to duty in the Department of the Tennessee.

Brigadier General Paine will proceed to Columbus, Kentucky and report to Major General C. C. Washburn, commanding District of West Tennessee at Memphis, Tenn., and await further orders from him.

By order of Major General W. T. Sherman

Orders #4

Headquarters Department of the Cumberland

Near Kenesaw Mountain, Ga. June 29<sup>th</sup> 1864

Special Field Orders No. 177

In obedience to orders received from Headquarters Military Division of the Mississippi, issued by direction of the President of the United States, Brigadier General Eleazer Paine U. S. Volunteers, is hereby relieved from duty in the Department of the Cumberland and will proceed to Columbus, Ky. reporting to Major General C. C. Washburn, commanding District of West Tennessee at Memphis, Tenn., and await further orders from him.

By command of Major General Thomas

-E. A. Paine responds to the report on the orders issued

“Acting under these orders I proceeded to Cairo, Ill. where I received an order from General Washburn to report to him in person. Accordingly I went to Memphis, saw General Washburn. He told me that ‘Matters were all wrong at Paducah, that I must set things straight, that I needed a firm hand’. I asked him what was the nature of the assessment referred to in the President’s letter to General Sherman. He said he did not know. General Washburn gave me the following order.”

Special Orders No. 83

Brigadier General E. A. Paine having been assigned by order of the President of the United States to the command of the District of Western Kentucky will at once take up his headquarters at Paducah. His command will include all that portion of Kentucky lying west of the Tennessee River, also the Port of Cairo.

Brigadier General Henry Prince at Columbus and Brigadier General Solomon Meredith at Cairo will report to Brigadier General Paine until further orders.

By order of Major General C. C. Washburn

-Preliminary statements from E. A. Paine

“I arrived at Paducah July 19<sup>th</sup> 1864. I ascertained that Colonel Barry, of the 8<sup>th</sup> Regiment U. S. Colored Artillery Heavy, was under an arrest for disobeying an order of Colonel Hicks, commander of the post, which required him (Barry) to deliver the wife or child of a colored soldier who had fought in the ranks against Forrest, in Barry’s regiment, to a rebel master to be taken away from Paducah; that the Lieutenant Colonel of Barry’s regiment had said he would not obey the order, and it appeared to me that there was no way to avoid trouble among the officers except to assume command at once.

Within three hours after my arrival I assumed command of the district and post. I relieved Colonel Hicks. I told him that I disliked to prefer charges against him, but that his order was a palpable violation of law. He said he was authorized by order from Adjutant General L. Thomas. He produced the order, but it gave him no such authority, and I informed him. Colonel Hicks was dissatisfied.

Here commenced the unrelenting hostility of the rebel sympathizers towards me. The next day I released Colonel Barry from arrest, and countermanded Colonel Hick’s order, which compelled any colored person to be delivered to the owner and taken beyond the lines, whether the owner was a rebel or a loyal person – outside of the military, I do not think there were one hundred persons in Paducah, who were not heartily elated at the issuance of the negro expulsory order and who were not indignant at the rescission. The very first day I was there the guerrillas under the leadership of a man styling and calling himself Colonel Outlaw, attacked the picket line, and again on the third day an attack was made on a picket post. There were more persons in town who openly assisted Forrest in his attack in March than there were union persons there, and a large, very large majority deeply sympathized with him and cordially wished him success, although they were endangered by his attacks and did not assist him. Some furnished cake and

wine to his officers and men; some furnished other promises; some furnished flags, some showed his men places of shelter, some pointed out to Forrest, or his officers, the stores, shops and dwellings of the Union men, and some calling themselves respectable ladies, showed the bye ways to good positions, where our gunners on the boats could be shot, which was done – and all of these persons nearly had taken the oath of allegiance to the United States.

These are the facts I can fully establish. Hypocrisy, perjury and treason, were the elements I had to deal with. If ever martial law was needed, it was in that district.

In a few days after my arrival I learned that General A. J. (Andrew Jackson) Smith, while in command of the Western District of Kentucky had issued an order, probably in the month of May 1864, organizing a board to assess all rebels and rebel sympathizers in said district, in proportion to their means, for the purpose of raising money to reimburse to loyal citizens their losses sustained by Forrest and Buford's raids, and also for damages sustained at the hands of guerrillas. The execution of this order had been suspended by an order from Lieutenant General Grant at the request of Governor Bramlette. When the papers were shown me, I fully comprehended the President's letter to General Sherman, directing that these assessments be kept in operation.

I sent for the board, consisting of the Rev. Mr. Starks of Calloway County, Rev. Mr. Dugger of Graves County and Thomas M. Redd Esq. of McCracken County, who then was and still is the Surveyor of the Port of Paducah. I took the order of General Smith, and made an order on the back of it, directing this board to fully execute General Smith's original order.

The gentlemen constituting this board had been all of the time unflinching, unyielding Union men. They had assessors books of the different counties and all of the papers and means of information necessary to a full and fair assessment. I only reversed the right to modify or fully cancel any assessment they might make, if I was satisfied that it was unjust. I made no change in the original plan.

Their were many cases of extreme suffering which needed immediate relief – many Union soldier's wives and children needed bread and meat, some needed shelter and clothes, as their houses had been burned with all their clothing. Generally the very poorest classes had suffered, while the wealthy persons in the district, escaped losses because of their attachment to the rebel cause."

-Protest against Commission

"Before proceeding further I protest against Brevet Major General Burbridge's authority to order a Military Commission to enquire into my conduct. He had no authority whatever to issue such an order he should have sent me a copy. Every person whose conduct is subject of enquiry has the right to be present to listen to the testimony and to cross examine witnesses. This right wholly denied me.

I received a telegraphic dispatch on the morning of the 7<sup>th</sup> of September 1864, a copy of which is given."

Telegraph from Headquarters

Lexington Sept. 6<sup>th</sup> 1864

Paducah 7<sup>th</sup> 1864

Brigadier General Paine – Paducah

You are hereby released from command in this district in accordance with orders from Lieutenant General Grant and will turn over your command to the officer next in rank, together with all books and papers pertaining to your office. You will report the name of your successor

to these headquarters by telegraph and will yourself report for orders to Major General Schofield commanding Department of the Ohio.

By order of Brevet Major General Burbridge

Commanding District of Kentucky

“The dispatch was received on Thursday morning. Brigadier General S. Meredith being the next in rank, I turned over the command to him. I was dangerously sick when the dispatch was received and was not able to be moved until the next Tuesday afternoon.

I remained six days after receiving the dispatch and no order dispatch, letter or any information or intention whatever was received by me or any person for me, that a court of inquiry or commission was to assemble there. The first I knew of it was upon my arrival at St. Louis. My wife in looking over a newspaper saw a short paragraph announcing the fact that the court was ordered and I am now to answer to testimony taken in a court where I had not the privilege to be heard.

I protest against the organization of that court. Officers were detailed as members who clearly show by their report their deep seated prejudice towards me personally and also to my collecting assessments ordered by the President.

I protest against the manner in which the court was conducted. I am informed and believe it to be true that many answers pertained to the subject matter were not recorded, even in some instances where the witnesses demanded that the answer should be recorded, and that two of my staff officers who were examined, were told that they would be sent to the guardhouse because their answers were satisfactory to the court.

I protest further that the proceedings of the court were irregular and informal and that the opinions and hearsay evidence, and conversations were recorded as evidence, and that the oaths of persons were taken, who had notoriously violated their oaths of allegiance to the United States.

Here it is my legal right to respectfully ask the Honorable Secretary of War to dismiss this proceeding for if the Judge Advocate General was holding court and a civil case was on trial he would not permit a verdict to be entered against a defendant, who would continue the cause with an order for an alias summons. For such stronger reasons would he refuse a trial in a criminal case if the accused was not present.”

-Produce Order

“As soon as I fully understood the President’s order to carry out the assessment order of General A. J. Smith, I immediately issued the Produce Order, referred to by the Judge Advocate General. There was a large amount of tobacco and cotton in the warehouses and on the river bank ready for shipment and much larger supply to come in. I at once closed all trade by prohibiting the shipping of tobacco or cotton by any person or company. As soon as I could sufficiently inform myself, I authorized all unconditional Union men to ship their produce. Mr. J. E. Woodward, an old citizen and one of the most, if not the most reliable Union man there was appointed Superintendent of Trade. He reported daily and sometimes several times a day all of his proceedings.

I ordered the assessments named in the order, to present the shipment of disloyal produce. I mean products belonging to disloyal persons or to require such produce to pay a fair proportion of what the assessment might be when fully made out. If it was too much, the individual suffering by it could be paid any excess, thus equalizing the tax upon him. I wished either to hold the produce or compel the owner, if he would ship to pay enough to approximate to the amount of his assessment.



It must be remembered right here that the final statement of losses in the Western District of Kentucky was not far from one million of dollars. That one item for the seizure and destruction of the Steamboat 'Orr' cargo was ninety thousand dollars. This boat was seized in Paducah in 1861 for carrying the stars and stripes at its masthead and for running upon the Ohio River.

I will state further that several of these witnesses who swear against me, assisted in the seizure of that boat. The boat was owned by loyal men in Evansville, Indiana and was seized upon a navigable stream in the United States. Had it been seized by a foreign power, this government would have insisted on full payment. Are rebels inside of our lines better than alien enemies?

As soon as I could obtain the necessary information, I was satisfied that the amount levied by me was none too much. Again, there were a great many persons who needed immediate assistance, and if the crop of tobacco or cotton passed to the market without paying the assessment, it would be a year before the money, or any considerable portion of it could be raised. I was compelled to act promptly. Another reason was that the most vindictive were selling out to pretended Union men for the purpose of avoiding the tax. This course was absolutely necessary to carry out the President's order."

-Banks

"I issued the bank order for the very same reason. A large number of wealthy men, nearly all disloyal, had deposited their money in the banks. It was safe there I would not permit one dollar to be drawn, except to pay a debt to a loyal person. I intended it should be held subject to the assessments. I also forbid the transfer of bank stock, except for charitable purposes, because nearly all of the stock owners were rebels and lived outside of the district. I intended to hold their capital there until it could be assessed. To this, great objection was made, but it should have been directed against the President and officers of the Army who denounced me for this bank order, would have denounced the President, if they had known why this order was issued.

The necessity and justice of my orders could not be changed, because they were unpleasant.

I will notice in this connection, the two checks which required the banking house of Watts, Given & Co. to pay. The first to Mrs. Birmingham – this woman was a poor honest, loyal person. It was held by the bank on a technicality – the woman must be fed by charity or starve, or obtain her just dues. If the bank paid it under an order from a commanding general acting under martial law, during the existence of the war, it would be a good plea in an action against the bank, by the heirs, for the money. But the truth is, non-appointment of an administration, was a pretext for using this woman's capital.

The same house was compelled to pay a check to C. O. Allard of eight thousand dollars. Allard owned a large flouring mill – he agreed to stock his mill with grain and do all the work we needed for government purposes. Supposedly twenty men paid their assessments in wheat, fifty paid theirs in corn and others paid in other grain. This mill then would be of great advantage to the government, and after I was satisfied that the bank owed this man over nine thousand dollars and that it was necessary for Allard to draw eight thousand to start his mill, of course, I ordered the payment. The reason the bank did not wish to pay was that they wished to settle with Allard's father some speculations of 1862 and 1863."

-Rents

"There are in the District of Western Kentucky a large number of wealthy men, who are malignant towards the government and who live outside of our lines and enjoy all the privileges

of citizens and who are in the receipt of rents amounting to a large sum. I ordered that all renters of disloyal persons after the first day of August last, should atone to the nearest Post Quartermaster. This fund was to be used as other monies in the Quartermaster's Department. But if after a few months, I found that the assessments could not be made out of other means. I then intended to change this fund and incorporate it into the regular Relief Fund. In fact it became necessary to use a part of it at once. If from these sources money sufficient could not have been raised I intended to make every disloyal person pay rent for the use and occupation of his own house and lands. Either I must be removed from my command or the order of the President executed."

-Use of Government Transportation

"Transportation was ordered to save Mr. J. T. Bolinger's property from destruction. Major General Washburn had repeatedly given such orders. I did it in several cases. The person paying for the transportation. In the case of Bolinger, I was anxious to send to Hickman to procure some county records and poll books, which were obtained. If a Union man's property was on fire would not the Judge Advocate General have assisted in saving it? This property would have been on fire very soon if it had not been removed."

-Deposing civil officers

"I did depose several civil officers. They were constantly interfering in my business and plead that they were officers. They were as hostile to the government as they dare be and never talked with or advised me, or assisted me in any way. Sour and malignant they stood off and only interfered when they thought that they could be executed by saying that they were civil officers. Of course, I deposed them. I think I have a precedent in some removals lately. It is time for 'the government would be better served by its friends'.

-Executions

"There were four executions at Paducah if I remember correctly and three at Mayfield. The first person was the leader of a most bloody gang of outlaws and murderers by the name of Kesterson, or as he was commonly called Kess. He was a prisoner at Columbus, Ky. when I assumed command of the district. I sent for him. As soon as it was known that I had sent for him great many citizens announced that if I shot Captain Kess that all the Union men, women and children would be shot in the district. It was talked of in Paducah several days before it could have been spread far into the country – many pretended Union men told me confidentially that all of the Union persons would be shot. My question was 'how do you know'. This question invariably staggered them. They did not wish to admit any conversation with the guerrillas neither did they wish to admit that they were secretly working for the fellow by preparing a public opinion. I went to see Kesterson and asked him why he shot old Mr. Happy. He said, 'that Happy was a damned Union man and would not keep quiet; he kept mouthing it about it'. I further asked why he shot the Rev. Mr. Owens – he answered for the same reason and said that he had shot two others. Said I 'suppose I should shoot every man here who is mouthing for Jeff Davis, he replied 'I had the power'. I answered, 'yes, thank God I have and I will shoot you tomorrow morning'. I asked him if he believed in God. He said he did. I advised him to turn his whole attention to that great being and if he had reassures laid up in heaven he had better draw for the full amount. I cannot write the history of this man here – not daring to fight our troops he indulged in murdering old unarmed men - robbing indiscriminately, never mustered into the Confederate service, sometimes in our uniform – sometimes in that of the enemy - and sometimes in citizens dress. He with forty others controlled a large tract of country, of which

Mayfield was the center – about thirty Union men had been murdered in the six months preceding my taking command of the post.

The same day I shot Kesterson I sent a man on a government branded horse with government bridle, saddle and blanket to the town of Dresden, Weakley Co., Tenn. seventy miles from Paducah and thirty beyond the limits of my district. I ordered him to read an instrument of writing furnished him to persons all along the road. He performed his duty faithfully and returned with the property. The notice read was that if another Union man was murdered or robbed, I would go to the locality with two thousand men and devastate the country and summarily execute five rebels or sympathizers for every murdered Union person.

It had the desired effect. For weeks afterwards, and after I was removed, Union men from forty miles south of the limits of that district came undisturbed to Paducah and made purchases and returned unmolested and when asked how that happened, invariably answered, ‘your proclamation and the shorting of Kesterson accomplished it all’. They would say ‘we can remain at our home now – these fellows pass our houses and do not molest us.’

The man Matthews who was shot, said that he had shot pilots on the boats; that he assisted in driving cattle off near Caseyville; that he had shot the damned Yankees and would do it again; that if we shot him we would shoot the damnedest rebel north of hell and south of damnation.

In no case whatever have ordered the extreme penalty unless I knew the person to be actually guilty. But a prompt summary punishment is absolutely necessary with such persons and there is great economy in human life by such a course. Pillage, robbery and murder were stopped by the execution of Kesterson. The other persons shot were brought to me from outside of my district. I have no regrets for shooting those men. They deserved it long ago.”

-Extortion

“It is alleged that I took, or rather extorted money and property from citizens; that Dr. D. D. Thompson swore that I took eight wagon loads of baggage when I left Paducah and part of it was carpet. When I left Gallatin, Tenn. and went to Tullahoma I took with me two teams to haul forage for horses and take my baggage when I left Tullahoma, I took the same teams and the same baggage. When I left Paducah, all of my baggage could easily have been loaded into one wagon. I took no carpet – I had none. I never took any persons money, property or valuables of any kind, never extorted a cent’s worth of anything, nor any amount. Dr. Thompson’s testimony is infamously false. He knew it when he swore to it.

Dr. Thompson’s family furnished General Forrest, when in Paducah, a white flag and a flag staff to use as a decoy upon Colonel Hicks during the fight there in March last. Forrest called in a most friendly manner at his house and a true loyal colored woman told me that Forrest fed at Dr. Thompson’s. The doctor and his wife confessed to me in the presence of my staff, that the flag was furnished. Dr. Thompson had taken the oath of allegiance long before that. I know that Forrest was welcome at his house. Dr. Thompson was very pleasant and courteous to me because ‘he would smile and smile, and still be a villain’.”

-Moss case

“In the case of compelling James Moss to pay money for abducting a negro from Paducah, the facts are that Moss is not a loyal man - neither is Loring. They are both like Dr. Thompson. The negro was decoyed from the town and then forcibly carried away. He had come to Paducah for protection. The evidence is that he returned as soon as he possibly could and related his story. Several cases had occurred. Moss and Loring ought to have been punished for kidnapping; one of them declaring that the nigger should not stay with the Yankees. I am free to

say that I should have protected the negro again, or any other who had been similarly treated. If a fine would not correct the evil, I should have resorted to harsher measures.”

-Bracken case

“In the case of Bracken, I have to explain that in 1861 General Smith sent me to Lovelaceville to seize Bracken’s property and so disable his mill that he could not run it. Bracken had been manufacturing flour and cornmeal and furnishing it to the rebels at Columbus, Ky. Instead of disabling the mill, I placed it in charge of a man by the name of Edrington, who very reluctantly to charge of it, afterwards Bracken was placed in charge of his mill. He then brought suit against Edrington for trespass, if I remember correctly, claiming damages after continuing the case along for nearly two years, Bracken dismissed his own suit. Edrington was compelled to give his note to a lawyer for fees amounting to two hundred dollars. Edrington came to see me in August last and stated that the note was due. I told him that Bracken should pay the note. In a few days Bracken came in. I ordered him to pay the note. Told him that Edrington took charge of the property by my order and if any person was to blame it was myself but that the suit was only brought to harass Edrington. Bracken was a vindictive rebel in 1861 and was so in 1864 and always will be. Edrington was and still is a Union man. Bracken was not in the guardhouse an hour according to my recollection. He paid the note without objection, because probably he thought it better to do so. He dismissed his suite more than a year ago.”

-Arrests and confinements

“Many persons were arrested and placed in confinement, could I have been permitted to appear before the commission I could have shown good substantial reasons for arresting Dr. Gregory, Milan, Cope and others. Dr. Gregory was a contraband dealer – Milan was a rebel spy and undoubtedly is today. If I had not been removed I should have him tried and convicted upon the testimony of good men who do not live within fifty miles of Paducah. Cope is a rebel - he was for peace – he did not think that anymore men or money should be voted by Congress to carry on this war – that it was all right to take a white man from Indiana or Illinois to defend Kentucky, but to take a gentleman’s servant in Kentucky was unconstitutional. From his drug store the contraband medicines were sent through the lines. I. F. Davis was arrested for stealing a pass after he had been denied one – he had been a rebel soldier – had taken the oath of allegiance and since that has disguised himself and rode with guerrillas in the night. He ought to be severely punished. Thomas Carman was properly arrested – he knows it – he cried when I talked to him and said he would change his course, and has, for he and his son voted for Mr. Lincoln at the last election.

William S. Mayes was arrested for harboring guerrillas – he said that they staid at his house – his daughter said the same and had I remained there I should have punished him severely. His son-in-law stole Captain Hall’s horse and took it to Mayes and kept it for some time.

If it is the intention of the government to permit such things to be done, then I am wrong. Others were arrested. If the Secretary of War will give me an opportunity I will show that I was not guilty of unlawful acts of commission, but might be charged with acts of omission. I should plead guilty to the latter and ask to be discharged, because it is better that ninety and nine guilty persons should go acquit, rather than one innocent man should suffer.”

-Encouraging lawlessness

“I utterly deny that I ever stood by and encouraged lawlessness or pillage by the soldiers – it is not true – I never suffered a Union man to be disturbed, if I could prevent it and if his property was taken it was always promptly restored the moment I knew it. My determination has

been to sustain, protect and defend the Union man wherever I was. It is said that in my expedition to Union City [Uniontown], Ky. in August last, that I seized the property of Union men. The truth is, that just preceding my trip, several hundred head of cattle belonging to the government were driven off by the guerrillas in and near Caseyville, Ky. Government cattle were scattered all through the country. I ordered the seizure of cattle, horses, mules and fat hogs, but not to take any Union man's property. While in Caseyville, a lady, Mrs. Casey the mother of the Honorable Samuel Casey, came to me and said that some soldiers had taken two horses and two mules from her. Said I to her, 'I know you Mrs. Casey, I know you to be a Union lady' I called an orderly and sent him with orders to have the property promptly returned. Her son, James Casey, complained that some of his property had been taken. I told him I would send a guard and would arrest and severely punish any person connected with the command whom he could point out as concerned in it. He declined to go because he said the soldiers might be mad at him. I told him that I would protect him, he refused to go. I afterwards learned that he sold gun caps, powder, lead, pistols, whiskey and other articles to the guerrillas in that neighborhood that he was on intimate terms with them.

If any side saddles or such property was taken, it was entirely against my orders and I had known of it, should have ordered the immediate return of the property. In a great many cases persons came to me to claim property, asserting their loyalty, but in very few instances could their loyalty be sustained. I returned all property not useful in some department of the government, old or unsound horses, unsuitable cattle, etc."

-Disrespect to General Halleck

"An effort is made by B. O. Woolfolk and others to prove that I spoke disrespectfully of General Halleck. I emphatically deny it. They never heard me use any such language. This Woolfolk after taking the oath was a disloyal as any man in Paducah – his family furnished cake and wine to Forrest's men during their attack on Paducah – it was taken out of the house to the street for those marauders. When he was notified to prepare to leave for Canada, he gave me his parole that he would not leave without my consent. In a day or two he ran away violating his parole. A more unscrupulous rebel does not reside in the Western District of Kentucky. He went to Louisville to get up a large sensation against me and succeeded."

-Expatriation

"I sent about forty persons to Canada. They were the men and women most prominent in assisting Forrest and Buford in their attacks upon Paducah and rebels equally guilty residing at Columbus, Ky. It is impossible to give a statement in each individual case without making explanations too voluminous. Most of them owned real estate (I endeavored to select the most wealthy) and claimed the right to reside on their own land. The answer was that they had the right to occupy their own possessions to the exclusion of all others – the government secured them that right – but the government had a superior right to control every square foot of her states and territories – that the government could not permit the soil to be polluted and possessed by its secret, cowardly enemies although they held a simple title to a portion of the lands – that if the possessor of the land was the enemy of the government, he must go entirely beyond the jurisdiction of the government. This one example was sufficient.

-Monies

"The financial matters pertaining to my administration are very correctly stated, I think by the Judge Advocate General, as I now recollect. The surplus from fines, penalties, rents and monies collected on assessments, amounted to over nine thousand dollars. The expenditures were over four thousand dollars, nearly all paid to soldiers wives and children and suffering persons –

all loyal. Besides this fund, there was collected by Jesse Gardner, Esq. the Superintendent of the Railroad, nearly ten thousand dollars, of which there was a balance of five thousand after all repairs, labor and contingent expenses were paid. This sum is still in the hands of Mr. Gardner, out of which he is to have reasonable compensation, say about five dollars per day. The balance belongs to the government. This railroad extends from Paducah to Mayfield thence to the Tennessee line. It had not been in operation for two years and I had it in operation about twenty-one days. The stock, except a very small fraction is owned by rabid, unrelenting rebels. All of their right to it has been forfeited day after day and month after month and year after year.

I would respectfully suggest that the stock of this railroad be adjudged forfeited in the courts and sold, except the small part belonging to unconditional Union men.”

-Mayfield

“I went to Mayfield, twenty-six miles by rail from Paducah, with a command of fifteen hundred men. I put Colonel McChesney in command of the post. I told him to build a stockade around the courthouse, which he would loop-hole and include a never failing well of water, the only place it could be procured within a mile – told him to press laborers and teams and complete work as soon as possible.

I went there again in ten days and he had commenced a fort or field work and had three sides nearly completed. I carefully examined it and permitted him to complete it. The place was not the most eligible but the use of the well was absolutely indispensable and to secure that it was necessary to construct the work there.

This town was the great rendezvous of all the infamous scoundrels in the country. There were perhaps three or four Union men in the town. The occupation of this town controlled the entire district. The administration of Colonel McChesney I knew but little about, as he had not been there over three weeks when I was prostrate by severe disease. I knew nothing of the charges against him until after I had returned home to Illinois.

I knew nothing of the matters charged against Major Bartling, Mr. Anderson, Lewis Church, Doctor Humble or Captain Hall, until long after I was relieved.

My son, Captain Phelps Paine, drew with my consent, one thousand dollars from funds in the hands of the Provost Marshal to furnish some matting, chairs, etc. for his office and which he left there and was taken possession of by General Meredith’s staff. He took some bedding, a small amount, and left it in his room. The facts are not stated correctly by the witness Ford.

-Arrests

“Dr. W. A. Bell asked for permission to sell his stock of goods, before the assessments were made. He had permission but the purchaser was ordered to hold two thousand dollars in his hands or pay it into the bank until the amount against Dr. Bell could be ascertained.

Captain J. F. Harris desires to be a Union man, but his wife insists upon being a very indiscreet rebel. We found in Mr. Harris’ possession some artillery harness manufactured in his shop for the rebel General Lloyd Tilghman. He offered an explanation on which I was willing to accept providing he was willing to pay five hundred dollars into the relief fund and require his wife to remember that she was a lady and her insane rebellious conduct would lead her into trouble. He said he would correct the evil and cheerfully pay the five hundred dollars. It was done.

Prince & Dodds and Ashbrook, Ryan & Co. and palpably violated the fifty-eighth paragraph of the Treasury Regulations. They confessed the whole of it. Prince & Dodds were Union refugees from Tennessee. I released them upon the earnest entreaty of Union men from Tennessee and others in Paducah upon their surrendering the contraband articles to Mr. Redd, the

surveyor of the port. If I released Prince & Dodds, who caused the violation, I was bound to release Ashbrook, Ryan & Co. because they were induced to commit the offense by Prince & Dodds.

There are a few more firms that were closed, but in every instance for disloyal or fraudulent conduct.

I did not send away my clerks. That statement of the commission is entirely incorrect. All of my staff remained in Paducah for at least ten days after I left, except my son. Also five orderlies and the clerk remained. I believe all of them except one aide reported to General Meredith.

I have made all the foregoing explanations entirely from memory, except the orders copied herein. There may be some slight discrepancies as to dates, etc. but not a material one.

In conclusion Mr. Secretary, I confess with shame and mortification that I have become addicted to the use of profane language. It is a wicked vice. The chaplain of the 11<sup>th</sup> Regiment of Illinois Infantry said there might be circumstances which would excuse a preacher for profanity. Then surely a layman ought to be excused in Western Kentucky. The provocations were great. Hypocrisy, deceit, cowardice and perjury were to be detected, when denied with a mendacity that would have shocked a bandit. For this great wickedness I pray God to forgive me. It appeared in many instances that I was compelled to use expletives which the person with whom I was dealing was most accustomed to hear to make him comprehend a virtuous sentiment. I am sincerely grieved that I am guilty of this offense and respectfully ask that it may be pardoned."

All of the above statements and explanations are

Respectfully submitted

E. A. Paine

Letter to General Solomon Meredith from Bank Officers at Paducah

Paducah, Kentucky

September 19, 1864

"To General Meredith

In command of the military forces at Paducah and of the Western District of Kentucky.

We the undersigned cashiers of the three banks, regularly incorporated by the state, and the principals of the two banking houses, all doing business within the City of Paducah.

Would respectfully represent to you that your predecessor in command, Brigadier General E. A. Paine, did on the 26<sup>th</sup> of July last make and publish a general order, No. 7, which we presume will be found among the records of your office to this effect.

All banks within the limits of this district except the post of Cairo are prohibited from paying out any money, or making any transfers of deposits, except by special permits, from these headquarters.

By the command of Brigadier General E. A. Paine

Official James Johnson

Asst. A.A. General

Phelp Parris [Phelps Paine]

Captain & A.A.G.

This order effectually tied up all deposits, even balance due from one bank to the other in the city and the commander being remonstrated with, of finding it himself, to this effect. The next day 27<sup>th</sup> July, modified order No. 7 by saying

‘All banks within this district drawing their deposits from other banks will not require the approval of the general commanding, but must then comply with General Order No. 7.’

By command of Brigadier General E. A. Paine

Phelps Paris [Paine] Asst. Adj. General

This then gave each bank and bankers within the city the privilege to check out their balances without the trouble and inconvenience of applying to the military and then the banks were relieved to that extent, but in force every other way.

On reflection, by you, you will readily perceive that this state of things gave great trouble and disturbance to the business of the committee. No bill or note could be renewed, discounted or taken by the banks, or check paid unless approved by the military.

It virtually stopped the business of the banks, even from collecting debts or renewing in part or in whole.

Not because the parties were disloyal or the business of the banks contraband, but the difficulty of approaching authorities and satisfying them, the parties being often unknown. All of us had pretty much to give up the idea of doing business and take things as it worked in this groove fixed by the commanding general, who often spoke of the subject to those applying for approval and proclaimed that his purpose was to tie up everything that the banks were backed up by thirty pieces of silver and he was backed up by bayonets.

Government officers doing business were subjected and required to conform to this order No. 7.

The banks and people worked along under this arrangement till the money of their drawers began to lessen and nothing coming in, thoughts of checking on their balance in other cities and thereby pay checks and replenish their drawers.

Calls were made to get special deposits by parties who had brought packages to be left in our vaults for safe keeping and at their risk and of which the bank took no account.

Others would call to give us for collection checks or drafts on other points.

Collections would be sent us from other cities and be remitted for.

And for fear these things might be considered by General E. A. Paine as improper if complied with, without special approval, he was consulted on the subject and the question directly put to him, so as to be certain of his purpose. We give here the question and the General's answer to each.

Paducah August 5<sup>th</sup> 1864

Can the banks of Paducah pay an approved check with Eastern Exchange same as with U. S. Ir. Notes, at their option without approval?

Answer – Cannot – E. A. Paine Brigadier General

Can the banks deliver to owners sealed packages, contents known or unknown, that are on special deposit at the owners risk without approval?

Answer – Cannot

Can the banks receive on deposit, Eastern checks, same as W. notes or other money and remit or sell same without approval?

Answer – Cannot

Thus the door of business and the avenue of approach was effectually fixed and settled to be thro' him.

The cashier of the Commercial Bank appealed to General Paine to allow checks to be given on other points, to parties, calling who had the money to pay for it.

But he refused and answered – No sir.



Thus matters stand today

The Commercial Bank of Kentucky in Paducah is the parent bank and has several branches. The transfer of the stock from one party to another of the entire bank has to be all made at Paducah.

These transfers General Paine would not permit without approval, thus subjecting all concerned to great vexation and inconvenience.

Be it remembered that we are in no communication with the Confederate States and have done no business within their limits since 1860, as our books will show and would be well pleased and delighted to get our balance from there that was fixed there before session prevailed, certainly have no desire to vest in securities in that region.

We would respectfully ask you to abrogate and annul all the bank orders made by General Paine and allow the banks of this district to do business regularly and untrammled by military orders as the other portions of the state.

If that cannot be permitted and it should be thought necessary to hold same restrictions – be good enough to give as large latitude as may be found consistent with public welfare. We are not making expenses as affairs stand now, worse still, we are not succeeding in collections as we think we could, if these restrictions were less stringent.

It may not be improper for us to say to you that the bank's of the state, owns among the number I have furnished, our state funds to carry on the war whenever called on. We pay heavy and large taxes to the general government as well as [other] tax and I think justice to the command you hold and to the stockholders and business community embracing every interest, would ask an abrogation of all this bank orders now in force emanating from General E. A. Paine.”

Watts, Given & Co.

Arston Bros.

J. N. Beadles Cash Br. Bk. Ashtern

S. B. Hughes Cash Br. Bk. of Louisville

James L. Hallam Cash Commercial Bank Kentucky

Charges against Henry Bartling (November 28, 1864 at Lexington, Kentucky)

Charge 1<sup>st</sup> – conduct prejudicial to good order and military discipline.

“Henry Bartling, Major Eighth (8<sup>th</sup>) United States Colored Heavy Artillery, did, on or about the first day of August eighteen hundred and sixty four, at or near Paducah, Kentucky, while acting Provost Marshal at Paducah, Kentucky, receive the sum of about seven hundred and fifty dollars, as a consideration for permitting the firm of Ashbrook, Ryan and Company of Paducah, Kentucky to open and transact the business of a grocery store belonging to the said firm, which store, the said Bartling, had in his official capacity as Provost Marshal closed upon some real or supposed violation of the laws of trade.”

“Specification 2<sup>nd</sup>: In this , that he, Henry Bartling, Major Eighth Regiment of United States Colored Heavy Artillery, did, on or about the first day of August eighteen hundred and sixty four, at or near Paducah, Kentucky while acting Provost Marshal at Paducah, Kentucky, receive the sum of or about the sum of two hundred dollars as a consideration and inducement for permitting the firm of Prince and Dodd of Paducah, Kentucky to open and transact business of a grocery store belonging to the said firm, said Bartling having in his official capacity aforesaid closed and stopped said store and business.”

“Specification 3<sup>d</sup>: In this... did on or about the thirteenth day of August eighteen and sixty four, at or near Paducah, Kentucky, in his official capacity take into his possession the sum or about the sum of ninety dollars the property of one E. B. Jones and did convert said money to his own private use.””

“Specification 4<sup>th</sup>: In this... did on or about the fifteenth day of August eighteen and sixty four at or near Paducah, Kentucky in his official capacity aforesaid, seize a clothing store and take into his possession the sum or about the sum of sixty dollars to wit forty dollars in demand notes and twenty dollars in other lawful money. The store and money being the property of the firm of E. B. Jones and Company and the said Bartling did convert the money aforesaid to his own private use.”

Charge 2<sup>nd</sup> – Embezzling money the property of the United States of America

“Specification: In this... on or about the first day of September eighteen and sixty four at or near Paducah, Kentucky embezzle the sum of or about the sum of four hundred and fifty three dollars and seventy seven cents, the property of the United States in the keeping of him, the said Bartling and did convert said money to his own private use.”

Additional charges (no date or place listed)

“Additional specification: preferred against Henry Bartling, Maj. 8<sup>th</sup> U. S. Colored Artillery (Heavy), Provost Marshal at Paducah, Ky.

1<sup>st</sup> [charge]

Spn: In that he ... did on the ninth of July 1864 arrest or cause to be arrested, one J. D. Moss – alias James Moss, a citizen of [blank space] upon frivolous and unjust grounds and did fine said Moss \$1000 and keep him under guard until the same was paid. This at Paducah in or about the 12<sup>th</sup> of August 1864.

Spn: ... did improperly and unjustly fine a citizen named Moss \$1000 and without proper authority did pay \$800 of said fine to a negro man named Ayers. This at Paducah in or about the 14<sup>th</sup> of August 1864.

2<sup>nd</sup> [charge]

Spn: ... did arrest of cause to be arrested one M. G. Milam a loyal citizen of Kentucky for unjust and dishonorable reasons and did unjustly and wrongfully detain said citizen under close arrest for the period of 51 days. M. G. Milam is aforesaid being to the knowledge and by the consent of said Major Bartling subjected to harsh and unnecessarily rigorous treatment and to the insults of officers and soldiers. This at Paducah, Ky. from about the [blank space] day of [blank space] 1864 to about the [blank space] day of [blank space] 1864. Witnesses - Dr. M. G. Milam

3<sup>rd</sup> [charge]

Spn: ... did close or cause to be closed the store of Messr’s Prince and Dodd and agreeing to open said store or allow it to be opened for the sum of \$1,000 receiving \$400 and paying \$200 to Lucian Anderson, did obtain \$200 for his own use and benefit. This at Paducah on or about the 15<sup>th</sup> of August 1864. Witnesses – L. Anderson / Prince & Dodd

4<sup>th</sup> [charge]

Spn: ... did take or cause to be taken from the store of E. B. Jones money to the amount of \$363 and did convert to his own use and benefit the sum of \$150 more or less. This at Paducah, Ky. on or about the 5<sup>th</sup> day of August 1864. Witnesses – L. E. Crandall - clerk Provost Marshal’s office / William Burgess / Leslie Nan – clerk E. B. Jones / Leslie Neil – clerk E. B. Jones”

Letter to General Solomon Meredith from Henry Bartling (September 16, 1864 – Paducah, Kentucky)

“Sir,

I have the honor to request that you place a competent officer in charge of the books and papers of my office pending the investigation now being made by Brigadier General Fry.

I have just delivered up to Captain Graham, your A.A. Genl. my iron safe and its contents. I would also most respectfully request that you have me furnished with a duplicate invoice of said safe and contents.

The inventory in the safe consists of ‘relief fund’, ‘provost marshal fund’, ‘checks’ – my own private funds (a very small amount) and some sealed envelopes said to contain amounts endorsed thereupon belonging to Captain R. H. Hall, Provost Marshal of Board Enrollment, 1<sup>st</sup> District of Kentucky.

I am sir very respectfully your obedient servant, H. Bartling”

Affidavit of G. O. Yeiser on behalf of Mrs. E. A. Maurous (September 20, 1864), a resident of Paducah

-“Mrs. E. A. Maurous a woman about 65 years of age was ordered to Canada by General Paine and sent away by him about 8<sup>th</sup> August 1864. Before she left she empowered in writing the affiant to take charge of ever species of property belonging to her and in fact to attend to her interests needing attention immediately after she was sent off affiant called upon General Paine – setting out in writing that he was so empowered by her to take charge of her furniture, etc. and requested the affiant be allowed to take charge of her furniture, etc. but General Paine refused – affiant then asked that he be permitted to take charge of dining table, side board bed stead and a small table that she wished them taken care of on account of associations but General Paine replied that he wanted them – affiant applied again for said furniture and also again but was refused – affiant says that he is informed that one Tom, a dragman in Paducah, Ky. – a one eyed negro – hauled two drag loads of said furniture to Major Bartling’s residence – affiant says that he was informed by J. G. Fisher that two loads of fine furniture were hauled away in two army wagons very soon after Mrs. Maurous was sent off – affiant is informed and charges at time that a Mr. [Matting] was put in possession of said house and in charge of valuable furniture belonging to Mrs. Maurous – affiant asks an investigation of this case and prays that he may be put in possession of said furniture and other property of Mrs. Maurous and that the dragman Tom be brought before the board and compelled to show who took possession of said stuff hauled off by him and under whose order...”

Colonel W. W. McChesney correspondence

-Headquarters Post of Mayfield, Ky. August 12<sup>th</sup> 1864

Special Order

No. 2

“By order of Brigadier General E. A. Paine I hereby assume command of the Post of Mayfield, Ky. Reports will be made to these headquarters. Consolidated morning reports will be made Saturday August 13<sup>th</sup> and a roster of commissioned officers as soon as possible.”

By order of Col. W. W. McChesney.

-Headquarters Post, Mayfield, Ky. August 23, 1864

“Judge Blunt will have charge of furnishing substitutes to work on the fortifications by the secesh sympathizers who have been ordered to work on the fortifications ~~out of my funds~~. He will pay the loyal refugees who are to work on the fortifications out of any funds that may be paid into his hands by secesh sympathizers who are disabled and will take vouchers for all funds expended.”

To Captain S. S. Anderson in charge of workmen

J. A. Willson, Major in charge of fortifications

-Headquarters District of Western Kentucky

Paducah, Kentucky September 20<sup>th</sup> 1864

Allen C. Fuller

Adjutant General

Springfield, Ills.

“Gen’l, I have the honor to report that a Board of Investigation has been convened in this district by order of General Burbridge of which Brigadier General Fry is president and from testimony adduced before this board, I hereby order the arrest of Colonel McChesney and request that you will not allow him to be mustered out of service when his regiment arrives at Chicago. I have sent a staff officer to arrest him and if he is unable to travel, I have instructed the officer to get a surgeon certificate of disability from an Army surgeon. A copy of the charges and specifications will be forwarded to you.”

I am General very respectfully your obedient servant, S. Meredith, Brigadier General

-General Headquarters State of Illinois

Adjutant General’s Office

Springfield, Sept. 25<sup>th</sup> 1864

By telegraph from Paducah Sept. 24<sup>th</sup> 1864

“Ad. Gen. Fuller, General: I request that you arrest Surgeon Danforth 134<sup>th</sup> Ill. Vol. Inf. until the furniture is returned that is deficient in the house which he occupied. S. Meredith, Brigadier General.”

-Chicago, Ills. Oct. 29<sup>th</sup> 1864

Capt. C. C. Pomeroy 11<sup>th</sup> Inf.

Chicago, Ills.

“Dear Sir: On Saturday Sept. 17<sup>th</sup> inst. I was placed under arrest by Captain E. R. P. Shurly A.A.A.G. of this post for what cause I know not and have made diligent enquiry and can hear of no charges preferred, or to be preferred, against me. I have received no paper or communication in reference their to, as the regiment under my command is now to be mustered out. I would refer this matter to you, referring you to regulations of 1863, see page 537 an act of Congress covering this case.”

I am sir, most respectfully you obedient servant,

W. W. McChesney

Col. 134<sup>th</sup> Regt. Ill. Vol. Inf.

-Copy of telegram to Brigadier General S. Meredith from Springfield, Illinois

Commanding District of West Kentucky

Paducah, Ky.

“Col. W. W. McChesney and Surgeon Danforth both of (134) One Hundred and Thirty-fourth, Ill. Inf. are under arrest, no charges have been received. Regiment about to be mustered out, what do wish to have done? Answer.”

James Oakes

Lt. Col. 4<sup>th</sup> Ill. Cav.

Superintendent of Volunteer Recruiting Service, Illinois

-Copy of telegram to Colonel James Oakes from General Solomon Meredith

Paducah Nov. 1<sup>st</sup> 1864

“I was ordered to hold Surgeon Danforth until turned over certain property in his hands at this place belonging to a citizen whose home he occupied and some other property not named to me. I have recommended his release when he does that without trial he cannot be released until property is turned over. Col. McChesney will be held by order of General Burbridge for trial, he will be ordered to Lexington soon.”

-Letter from Edward D. Luxton (Adjutant 134<sup>th</sup> Illinois Infantry) to Colonel W. W. McChesney Chicago, Ill. November 14<sup>th</sup> 1864

“Col. In answer to your inquiries about your property contained in a large box left at Mayfield, I would state soon after your departure Captain Grant, Inspector General on Brev. Maj. Genl. Burbridge’s staff, came to Mayfield, and while I was absent, he had said the box opened and was taking an inventory of its contents. I returned to the room and found him so occupied - the following day, Capt. Whiteside (a government detective) took charge of said box and contents, and it was by him removed to Paducah, Ky. I stated to Capt. Whiteside that a japanned box contained papers of value to me, also many valuable articles, private property of yours, he still said he must retain it and did so promising to preserve it. On my late visit to Paducah, agreeable to your wish, I made application to Brig. Genl. Meredith for permission to take charge of, and return to you, the private property (wearing apparel, etc.) in said box in a back room and by the assistance of an A.A.A.Genl. on Genl. Meredith’s staff – I found part of the property – the box had been opened and many articles of value taken there from. The tin box could nowhere be found and no trace or clue could I get from any source, the article I succeeded in obtaining, even carefully overlooked, and handled by the A.A.A. Genl. above mentioned and the lot of clothing and your sword and belt, I showed to Genl. Meredith the sword and he ordered me to deliver to Capt. Graham – the other property he permitted me to bring away and which I carried in my arms as Genl. Meredith and Capt. Graham well know – trusting this will be satisfactory.”

-Letter from General Joseph Hooker to General E. D. Townsend (Asst. Adj. Genl. at Washington)

Cincinnati, Ohio

November 15, 1864

“I have the honor to report that Colonel W. W. McChesney, 134<sup>th</sup> Regt. Ills. Vols. Was arrested at Chicago Sept. 17<sup>th</sup> 1864 and ordered to Lexington, Kentucky at the request of Brev. Maj. Genl. S. G. Burbridge Comdg. Dist. Of Ky. The 134<sup>th</sup> Regt. Ills. Vols. was a one hundred day regiment and has been mustered out of the service at the time of Col. McChesney’s arrest, he was too sick to be moved to Lexington and has remained so since the date of his arrest – he is now at Chicago. Genl. Burbridge reports that the papers in the case of Col. McChesney are all in the hands of the Judge Advocate General at Washington and the case awaiting action.

I would recommend that unless some action is to be taken against this officer that he be released from arrest and mustered out of the service. The nature of the charges against Col. McChesney are not known at these headquarters.”

-Letter from L. Jansens (resident of Paducah) to Col. W. W. McChesney Paducah, Ky.

October 30, 1864

“Dear sir, my brother found a box having your name on it containing papers, which may be of value to you, besides other things, you may have it any time by sending for it – we live on the same street you camped on just below the fort, in Lieut. Cunningham’s house...”

November 22, 1864

“You ask me information about your box, we are French and the French have a saying that if iron is found on the way to or from a place it brings good luck, if picked up – as me and my brother returned from town on the bridge just below where you camped was a piece of iron. I being superstitious told my brother to pick it up – in doing so he saw a box just beneath the bridge – which he brought home – we instantly informed Mr. Cunningham, Lieut., in whose house we live, he advised us to inform others, so as to discover your whereabouts after it was known that we had the box, authorities came to open it to see if they could find any clue concerning a charge they had the time you left – however they found nothing after it was opened and returned the box to me, and now sir this is all I or anybody else can tell you...”

-Letter to General Lorenzo Thomas from Lt. Col. James Oakes

Springfield, Illinois

December 15, 1864

“Respectfully referring to my communication of Nov. 30<sup>th</sup> and your reply thereto dated Nov. 10<sup>th</sup> relative to the arrest of Col. McChesney and Surg. Danforth, both of the 134<sup>th</sup> Inf. Ills. Vols. and retention in service after the muster out of their regiments. I have the honor to state that frequent applications on the part of their friends are being made as to what decision will be made in their case, and I would therefore again respectfully request instruction as to whether I shall still retain them under arrest until the pleasure of the War Department may be known.”

-Letter from Col. W. W. McChesney to Gen. E. A. Paine

From Chicago, Illinois

To Paine

At Willard Hotel

Washington, D. C.

December 15, 1864

“Being still confined to my room by sickness (contracted while in the service in Western Kentucky) I avail myself of my father’s services as my a manuscriptis, to furnish you with a statement of my Caw in accordance with Col. Hancock’s promise at the interview which he had with you last evening to be brief as possible. I pass over your appointment of me to the command of the post of Mayfield where I endeavored to execute your orders, until the later part of August (last) when I was prostrated by severe sickness. In early September, my surgeon deemed my situation so critical that he removed me to Paducah where we remained a day or two without any improvement in my health, when my surgeon procured your order for me to report to Governor Yates and (with two orderlies) accompanied me as far as Centralia (in this state) whence, my surgeon returned to his post and I reached home on the 7<sup>th</sup> September. On leaving Mayfield, it was hoped after spending a few days at Paducah, I might be able to return to duty. I therefore left at my headquarters all my personal effects. Ten days after I reached home, while confined to my bed, I was placed under arrest by the A.A. Genl, of the post of Camp Douglas, by authority, as I was informed, of an order from Major General Hintzleman, who was in command of the Northern Department, but am still uninformed officially what for! Notwithstanding, I have long since applied to Genl. Burbridge by letter sent by special messenger for a copy of the charges on which my arrest was ordered. I m therefore left to conjecture the cause of my arrest. Within a few days after I left Kentucky, I am informed, Brig. Genl. Sol Meredith succeeded you in

command of that district and that adopting a new policy, he visited Mayfield, had the forces there mustered before him, my regiment (the 134<sup>th</sup>) without arms and in the person of citizens and rebels who had been employed in erecting the fortifications – made an address to them in denunciation of Gen. Paine and his policy – denouncing your subordinates, particularly the 134<sup>th</sup> regiment and myself – charging I had made unauthorized arrests, taking property of citizens without right or authority, etc. and that he would have the whole administration investigated and would redress the grievances of the citizens there, etc. – that he then discharged those whoever had worked on the fortifications – notwithstanding many of them refused to take the oath of allegiance. In his address I am informed Gen. Meredith stated that persons had been arrested and shot without authority or trial, etc. I can only conjecture my arrest is based on some of the above charges made by Genl. Meredith in the address attended to – for it was within a few days after this address that I was placed under arrest. My regiment (100 days men) was detained at Mayfield notwithstanding the time for which they had enlisted had expired the reason assigned by Genl. Meredith was not that the emergency of the service required it but “he was giving to make soldiers of them” (thus it appears those who enlisted to fight for the union were made prisoners by U. S. officers while rebels and guerrillas whom our men had captured and guarded turned loose to join Forrest or Hood’s forces) – at the time Genl. Meredith visited Mayfield, as above stated, my personal effects left at my headquarters were taken possession of and many of them still retained, although I have reason to believe Genl. Burbridge has issued an order to Genl. Meredith to forward my private effects to me at Chicago. I have Genl. Meredith’s letter addressed to A.A. Genl. J. Bates Dickman dated November 2, 1864 in which he informs Genl. Burbridge, ‘that the box belonging to W. W. Col. McChesney, containing his private effects was forwarded to Chicago more than a week ago in charge of Lieut. Luxton, adjutant of the 134<sup>th</sup> Infty. Ills. Vols.’ – no such box has been received by me. In this connection, I beg, General, to call your attention to Lieut. Luxton’s statement a copy of which I enclose – also to two letters which I received from L. Jensens of Paducah. Copies of which I enclose and particularly to the dates of those papers. General Meredith’s letter to Genl. Burbridge, A.A.A. Genl. is dated November 2<sup>nd</sup> 1864 in which he says ‘the box belonging to Col. W. W. McChesney, etc. was forwarded to Chicago more than a week ago in charge of Lieut. Luxton.’ Lieut. Luxton says he brought no box and the tin box (with many other articles) could not be found. Mrs. Jensens letter informing me she had found my tin box is dated 30<sup>th</sup> Oct. – it had ‘been opened by authorities’ evidently, as she enumerated my private papers as part of the contents and I suppose Genl. Meredith is the only competent authority at Paducah. It seems to me, clearly that Genl. Meredith had ordered my tin box broken open (prior to the 30<sup>th</sup>) to search for evidence to justify my arrest but failing to find such evidence, left the box in the possession of Ms. Jensens and three days after write Genl. Burbridge’s A.A. Genl. ‘that the box belonging to Col. W. W. McChesney containing his private effects has been sent to Chicago more than a week ago in charge of Lieut. Luxton.’

General, I fear, I weary your patience with this protracted statement, but I desire to give you as clear an understanding of the case as I can and have done so. I know of no good cause or reason for my arrest – and have not been furnished with any portended or otherwise. I have been confined to my room most of the time (to my bed a good share of the time) since I got home. I was able to ride out for a few days but was taken down with a relapse and am now confined to my room again – part of the time to my bed. My attending physician urges me to try a change of climate and such medical aid in New York which I am most anxious to do but suppose I cannot even if I were able to take the journey to New York until my case is dispersed of. I feel it a great

hardship (to say the least of it) to be detained under arrest without cause or being furnished with any reason for my arrest while my health is sadly broken upon and my very life endangered by being so detained. I will feel greatly obliged, General, if you will bring this matter to the attention of the Department that I may be relieved from my unpleasant position as speedily as possible.”

-Letter from E. D. Townsend (Assistant Adjutant General) to Colonel William H. Dunn (Assistant Judge Advocate General at Paducah)

Washington, D.C.

February 20<sup>th</sup> 1865

“In pursuance of the directions of the Secretary of War endorsed upon the enclosed papers in the Case of Colonel W. W. McChesney, 134<sup>th</sup> Illinois Volunteers, I have the honor to forward them to you with instructions to cause Colonel McChesney to be brought to trial before the General Court Martial which has been convened for the trial of Brigadier General Paine.”

-Letter from E. D. Townsend to Colonel William H. Dunn

Washington, D. C.

April 5<sup>th</sup> 1865

“It now appears however that he (McChesney) has been allowed to be formally mustered out of service; and though he might still be brought to trial under the act of March 2, 1863 upon the single charge of embezzlement of public property, which was originally presented against him, yet as the proof to support this charge is not of a convincing character, it is not recommended that further action be taken against the party.”

General E. A. Paine Correspondence

-Letter from E. A. Paine to Brigadier Colonel Hardie (Assistant Inspector General at Washington, D.C.)

May 15, 1865

“I respectfully ask the Hon. Secretary of War for a copy of the findings and sentence of the Court Martial which tried me at Paducah, Ky. in February last and which Maj. Genl. Hunter was president.”

-Letter from E. A. Paine to Brigadier General Joseph Holt (Judge Advocate General at Washington, D.C.)

October 10, 1865

“Last February and March I was tried before a Court Martial assembled at Paducah, Ky. of which Maj. Genl. Hunter was present upon charges prepared by yourself. As yet I have been wholly unable to ascertain the findings and sentence of the court.

I respectfully ask that I may be furnished with a copy of the whole trial taken from the records of the court.”

-Letter from E. A. Paine to Major General John M. Schofield (Secretary of War at Washington) Washington, D.C.

February 14, 1869

“I respectfully request that you will direct the Judge Advocate General to furnish to me a copy of the recommendations of the members of the General Court Martial that tried me in Paducah, Ky. in 1865, which recommendations is attached to the record of the proceedings in the case.”

Affidavit of John L. Seaton (February 9, 1865), resident of Paducah



“...witness says they were conversing about the Union cause and when Genl. Meredith was referred to Col. Barry said, when near the fort and in presence of Col. McArthur that ‘Genl. Meredith was a damnedest liar out of hell’ and witness says said Col. Barry repeated the declaration a number of times. Witness replied, that while he was far from approving or endorsing Genl. Meredith’s present mild policy towards rebels and guerrillas, he thought such language to severe. After which Col. Barry repeated again the aforesaid expressions and said he did not care who knew it.”

Statement of W. W. Tice (no date listed), resident of Mayfield

-“On or about the 25<sup>th</sup> August 1864 a party of cavalry were sent from Mayfield under the command of one [blank space] the adjutant of the Kentucky State Guard commanded by Major M. A. Payne with positive orders from Colonel McChesney to shoot one Eli Enoch, a citizen of Graves County, said Enoch was found at the house of one Beasley one mile from Spencer’s Chapel in Graves County engaged in threshing wheat – he was taken to Spencer’s Chapel his eyes bandaged and himself shot to death almost before he knew his doom. Rumor says that the information upon which McChesney issued his order was the statement of one Riley a man of notoriously bad character, who was a member of Captain Gregories Company of state guards, said riley being activated by an old grudge to procure Enoch’s death. Enoch was at his neighbors. All believe a man of peaceful disposition and good citizen and neighbor.

Probable witnesses, adjutant above mentioned - Fayette Fielding, John Allison, Riley, members of Captain Gregories Company State Guards, Stephen and Robert Beasley, citizens of Graves County also Luxton, Adjutant of the 134<sup>th</sup> Illinois Volunteers.

Colonel McChesney command while at Mayfield ravaged the whole country, drove off and slaughtered nearly all the cattle and hogs within reach of town, both Union men and others, killing those unfit for beef for the hides – tore down nearly every log stable and house and barn in the town, burnt rails for wood, destroyed the growing crop near town, cut down almost every shade tree in the village, quartered his troops in citizens houses, kept three or four hundred citizens at work on a perfectly useless fortification which ruined the village of Mayfield. He rendered the court house of Graves County worthless. He extorted money from the people, attempted to force M. Saxton, a citizen, to tell where the money was concealed. Witnesses all the citizens of Graves County, A. R. Boone, T. J. Puryear, M. Saxton, Clois I. A. McNutt and others – James Wright of Graves County.”

-“On or about the 22 day of August 1864, one Eli Smith, a resident of Graves County was arrested in the Town of Mayfield by order of Colonel McChesney charged with harboring guerrillas or Confederate soldiers – he sent to the country for his witnesses who as they arrived gave in their evidence before McChesney or his adjutant Luxton – after 2 or 3 days Smith was called into the Adjutant’s office and told by Luxton that he Smith had proved himself clean of the charges against him but that he was fined \$50 to pay his (Smith’s) attorney W. G. Blount, \$50 for a refugee fund and \$50 as exemption from labor on the fortifications and that he, Smith, could not leave town till it was paid. Smith paid the money and went home.”

-“On or about 24 August, Colonel McChesney sent a soldier to the house of B. H. Clois, a citizen of Mayfield, and took two guns there from Clois – not being at home. Clois went to see McChesney who told him he would return the guns before he left Mayfield. Said guns were afterwards found in a box which McChesney had ordered to be sent to him in Chicago. Said box also contained a clock which McChesney had borrowed from Chapel Hayes, a citizen of Mayfield, also a field surveyor’s compass and chain, the property of John Eaker, esquire of

Mayfield – witnesses to contents of box, Lt. Luxton of the 134<sup>th</sup> Ill., Lt. Colonel Cunningham 8<sup>th</sup> U. S. Heavy Artillery Colored Troops – William Hall, citizen of Mayfield. On or about the 25<sup>th</sup> August 1864, Colonel McChesney fined Dr. Riband, a citizen of Graves County, \$300 for exemption from labor on fortifications – witness Dr. Riband of Graves County.

#### Charges against Henry W. Barry

##### First Charge

Conduct to the prejudice of good order and military discipline

1<sup>st</sup> Specification - "...did cause procure and allow extracts from a certain military order, not officially communicated to him...nor through the regular military channels, to be made out and certified as official by the signature of George W. Cox, Adjutant of the 8<sup>th</sup> U. S. Colored Artillery (Heavy), which said extract announced the discharge from the service of the United States of Lieutenant Colonel Richard Cunningham and Major Henry Bartling...and the appointment of other officers in their stead; and did cause and allow said extracts so certified as official to be delivered to said Cunningham and Bartling as official orders. This at Paducah, Kentucky on or about the 30<sup>th</sup> day of January 1865."

2<sup>nd</sup> Specification - "...did wrongfully procure and cause the firm of Norton Brothers Bankers in Paducah, Kentucky to receive of one Mrs. Kerr, of said place, the sum of one hundred fifty dollars in gold, this when the said gold was of much greater value than the United States Treasury notes. This at Paducah, Kentucky on or about the 30<sup>th</sup> day of August 1864."

3<sup>rd</sup> Specification - "...did place in arrest Captain Charles A. Holmes of Company C 8<sup>th</sup> Regiment United States Colored Artillery (Heavy) and did place a guard over the said Captain Holmes and did unlawfully and maliciously continue ... said arrest for the period of thirty days and did not furnish ... charges against him... This at Paducah, Kentucky from on or about the 23<sup>rd</sup> day of November to the 23<sup>rd</sup> day of December 1864."

4<sup>th</sup> Specification - "...did behave himself in the following contemptuous and disrespectful manner toward his commanding officer Brigadier General Sol Meredith Commanding District of Western Kentucky by using in the presence of officers and citizens the following language to wit: 'General Meredith is the damndest liar out of hell', or words of that effect. This at Paducah, Kentucky on or about the 6<sup>th</sup> day of February 1865."

5<sup>th</sup> Specification - "...did behave himself in the following contemptuous and disrespectful manner toward his commanding officer ... by using in the presence of other persons the following language, to wit: 'General Meredith is a God damned old liar' or words of that effect. This at Paducah, Kentucky on or about the 8<sup>th</sup> day of February 1865."

#### Charges against Colonel James W. M. McArthur

##### Charge

##### Disobedience of Orders

1<sup>st</sup> Specification – refused "to forward the tri-monthly report, then due for December 1864 of his command... This at Columbus, Ky., on or about the 24<sup>th</sup> day of December."

2<sup>nd</sup> Specification – refused "to send the steamer Convoy from Columbus, Ky. to Paducah, Ky. and the said Colonel McArthur did not obey said orders, but failed to send the said Convoy as directed by the said Brig. Genl. S. Meredith ..."

3<sup>rd</sup> Specification – refused "to make reports to him, the said Brig. Genl. S. Meredith, as he, said Col. James N. W. McArthur, had previously done. But ... did not obey said order but utterly failed to make such reports..."

4<sup>th</sup> Specification – “... whilst commanding the post of Columbus, Ky. after receiving ... following communication and the orders embodied therein as follows.”

Headquarters District of West Kentucky

Paducah, Ky.

January 13, 1865

“The general commanding directs that you will forward to these headquarters all reports due this office – that you will order that the steamer Convoy to resume her trips to Paducah, as heretofore that you will revoke all orders issued by you laying tax, or assessments, upon the stores, or upon the stores, or upon the citizens of Columbus, and any other orders issued by you, since your last report to these headquarters – that all orders in regard to trade, conflicting with orders in regard to trade, be immediately revoked and that the Board of Trade appointed by General Meredith be allowed to resume their duties at once. From the accompanying letter from the War Department, also it will be seen that the port of Columbus has not been detached from this district, as was assumed, and that all orders from General Dana issued in view of such assumption, are therefore null and void. As you have heretofore refused to obey the orders of the general commanding the District of Western Kentucky these orders are forwarded by a member of his staff Captain T. C. Buntin Chief Q. M. of the district.”

Senate resolution to transmit evidence

-Senate resolution

January 23, 1865

“Resolved, the Secretary of War be directed to transmit to the Senate the report and evidence taken by a military commission of which Brigadier General Speed S. Fry was president, appointed to investigate the conduct of Brigadier General Paine of the United States Army, in and about Paducah, Kentucky; the defense of Brigadier General Paine; the review of Judge Advocate Holt and all papers relating to the case.”

-Letter from E. D. Townsend (Assistant Adjutant General) to Brigadier General J. Holt (Judge Advocate General)

Washington, D. C.

January 25, 1865

“The Secretary of War desires that you cause a copy to be made of the proceedings of the Military Commission in the case of Brig. Genl. E. A. Paine and sent to this office for transmittal to Congress in accordance with the enclosed resolutions.”

-Letter from E. D. Townsend to General J. Holt

Washington, D. C.

January 30, 1865

“The Secretary of War directs that you prepare charges against Brig. Genl. E. A. Paine for trial before a court martial ordered to assemble on Wednesday the 8<sup>th</sup> day of February next at Cairo, Illinois.”

Trial Proceedings

-Special Orders No. 51

War Department

Adjutant General’s Office

Washington, D. C.

February 1, 1865

“A general court martial is hereby appointed to meet at Cairo, Illinois, on the 8<sup>th</sup> day of February, 1865, or as soon thereafter as practicable, for the trial of Brigadier General Eleazer A. Paine, U. S. Volunteers, and such other prisoners as may be brought before it.

Detail for the Court

Major General D. Hunter, U. S. Volunteers.

Major General S. P. Heintzelman, U. S. Volunteers.

Major General S. Casey, U. S. Volunteers.

Brigadier General H. B. Carrington, U. S. Volunteers.

Brigadier General William Harrow, U. S. Volunteers.

Brigadier General J. B. McIntosh, U. S. Volunteers.

Colonel J. Connell, 28<sup>th</sup> Iowa Volunteers.

Colonel William McGee Dunn, Assistant Judge Advocate General, is appointed Judge Advocate of the Court.

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

By order of the Secretary of War

E. D. Townsend

Assistant Adjutant General.

-Notes of proceedings

Cairo, Illinois

February 8, 1865

12 m. the court met in pursuance to the foregoing orders

Present

Maj. General D. Hunter, U. S. Vols.

Col. J. Connell. 28<sup>th</sup> Iowa Vols.

Col. William McGee Dunn, Asst. Judge Advocate General ...

The court adjourned to meet again at 10 o'clock a.m. tomorrow the 9<sup>th</sup> inst.

-Special Order No. 64

War Department

Adjutant Generals Office

Washington, D. C.

February 9, 1865

“The telegraphic order of February 8<sup>th</sup> 1865, from the office, relieving Brigadier General Carrington, U. S. Volunteers, from duty as a member of the General Court Martial convened by Special Order No. 51, February 1<sup>st</sup> 1865, from this office, is hereby confirmed.”

-Draft of telegraph from W. M. Dunn to General Joseph Holt

Cairo, Illinois

February 9, 1865

“Sir,

The General Court Martial appointed by special orders War Department No. 51 C. S. assembled this morning, all the detail present except Brig. Genl. McIntosh and Carrington.

I reported to the court that I had ... no charges, instructions or list of witnesses and that he was not here. I was ordered by the court to telegraph these facts to you, which I am now.

I was also ordered to inform you that in the opinion of the court its proceedings would be greatly expedited and the case of General Paine thoroughly investigated if the court held its sessions at Paducah, Ky. and ask you to apply to the Secretary of War for an order authorizing the court to

confer to Paducah where in the opinion the President of the Court such an ... order be for the length of the service.

-Draft of telegraph from W. M. Dunn to General Joseph Holt

Cairo, Illinois

February 9, 1865

The court martial has assembled. I have not received charges nor list of witnesses against General Paine. He is not here..."

-Notes from trial

Cairo, Illinois

February 10, 1865

10 o'clock a.m.

"The court met pursuant to the adjournment of yesterday.

Present, Major General D. Hunter, President

S. P. Heintzelman

S. Casey

William Harrow

J. Connell

W. M. Dunn

The Judge Advocate reported that he had no witness for the court. That he has received no charges against Brig. Genl. Paine nor list of witnesses to be subpoenaed in the case and that Gen. Paine was not believed to be in the city.

The court ordered the Judge Advocate to notify the Judge Advocate General by telegraph that the court had been assembled and that the Judge Advocate had no charges against General Paine to bring before the court nor list of witnesses, and that Genl. Paine is not here.

Then upon the court adjourned until tomorrow morning at 10 o'clock a.m."

-Draft of telegraph from General E. D. Townsend to General Joseph Holt

Cairo, Illinois

February 10, 1865

[difficulty to transcribe]

"General,

I am directed by the G. C. M. at work in this city under special orders War Dept. No. 51 C.S. to ask the Secretary of War to whom the members of this court co finds and and also that he will make permitting the court to without regard to going.

-Draft of telegraph

Cairo, Illinois

February 13, 1865

"The G. C. M. met pursuant to adjournment. Present all except Genl. Carrington. Adjourned to 10 o'clock ... Tuesday the 14<sup>th</sup> inst."

-Telegraph from E. D. Townsend to General David Hunter

Washington, D. C. 2 p.m.

February 13, 1865

"The session of the Court Martial of which you are President is transferred to Paducah, Ky."

-Notes on trial

Cairo, Illinois

February 14, 1864

“The court met 10 o’clock a.m. pursuant to the adjournment of yesterday. Present the president and same members as yesterday.

The president laid before the court the following telegrams.

The judge advocate informed the court that he had received the charges against Paine and also laid before the court the following orders.

The court then adjourned to meet at Paducah, Ky. Thursday Feb. 16<sup>th</sup> at 10 o’clock a.m.

Paducah, Kentucky

February 16, 1865

The court met at Paducah, Ky. at 10 a.m. pursuant to adjournment. Present the president and all the members. The judge advocate stated that he was not quite able to provide witnesses and thereupon the court adjourned to Friday the 17<sup>th</sup> inst. at 10 a.m.

-Rooms General Court Martial

Paducah, Ky.

February 17, 1865

10 o’clock a.m.

“The court met pursuant to the foregoing orders and adjournment:

Present.

Major General David Hunter, President, and all the members of the court and the Judge Advocate.

The court then proceeded to the trial of Brigadier General Eleazer A. Paine, U. S. Volunteers, who was called into court and having heard the foregoing orders read was asked if he had any objection to any member present named in the orders; to which he replied in the negative.

The court and judge advocate were then duly sworn in the presence of the accused; and Mr. Charles Carpenter was then duly sworn in the presence of the court and accused, as reporter of the court by the judge advocate.

The accused was then duly arraigned on the following charges...”

Report to the President (Lincoln)

War Department

Bureau of Military Justice

March 28, 1865

“To the President

Brigadier General Eleazer A. Paine U. S. Vols., was tried February 17, 1865 by General Court Martial of which Major Gen. Hunter acted as presiding officer and which was convened by order of the Secretary of War at Paducah, Ky. on the following charges:

1. Violation of the fifth article of war.

In using contemptuous and disrespectful words against Hon. Thomas E. Bramlette, Governor of Kentucky, in which State the accused was then quartered.

2. Conduct prejudicial to good order and military discipline,

In this, that the accused did publically speak of and denounce his superior officer Maj. Gen. H. W. Halleck as a ‘God damned coward’ and as a ‘damned rascal’, or in words to that effect. This at or near Paducah, Ky. on or about the last of July 1864.

The remaining specifications under this charge – twenty five in number – it is thought unnecessary to give detail. They will be found at the beginning of the record which accompanies this report. They allege numerous acts of arbitrary power on the part of the accused while in command of the District of West Kentucky, in the enforcement of the payment of moneys due to

depositors from bankers in Paducah; in closing stores of merchants thought to be disloyal and engaged in trading with persons in rebellion; in furnishing government transportation for the private property of citizens; in confining citizens in jail without due process of law; and in the appropriation of horses and other property of inhabitants of the district, alleged to be loyal men.

Of the first charge and its specifications the court acquit the accused, as also of twenty five of the twenty six specifications under charge 2<sup>nd</sup>. They find him guilty of the first specification, which alleges disrespectful language with reference to General Halleck, excepting in their finding the words ‘and as a damned rascal’ – guilty also of the charge; and sentence him to be reprimanded by the President of the United States in General Orders.

The court terminate their findings and sentence him with the following remarks. After a long and patient investigation of all charges and specifications against Gen. Paine, the court deem it their duty to state that they can find nothing impugning his integrity as a man or his honor or ability as a soldier. On the contrary they find his whole administration marked by vigilance, ability and an earnest and intelligent zeal for the best interests of the government. There is multiple evidence on the face of the record to show that from a deplorable and chaotic state of affairs on the advent of Gen. Paine everything was soon brought into a complete state of order and safety and the lives and property of Union men made secure through the whole District of Kentucky and for considerable distance into Tennessee.

He only appears to have been a terror to evil doers. Rebels, thieves and cut throats, not a Union man, woman or child says of him a word of evil.

Gens. Hunter, Heintzleman, Casey, Harrow and McIntosh, and Col. Connell, members of the court unite in a recommendation for remission of the sentence in the following terms;

In view of the fact that the improper remarks made by Gen. Paine with regard to Gen. Halleck, and for which the court found him guilty of conduct prejudicial to good order and military discipline, were made in the heat of a warm and exciting argument and elicited by a tantalizing remark of his opponent Emerson Etheridge, who was at that time stumping the country for the purpose of embarrassing the government in its policy; and knowing that he has since regretted his remarks; we, the undersigned, recommend that the sentence be remitted.

The findings of the court are regarded as justified by the testimony and for the reasons assigned in the recommendation of Gens. Hunter, Heintzleman, Casey, Harrow, McIntosh and Col. Connell, it is believed that the sentence may be remitted without detriment to the interests of the service.”

J. Holt, Judge Advocate General

Court transcripts of trial proceedings.

Court session began at 10:00 a.m. on Friday February 17, 1865

-“To each and all of which specifications and charges as they were severally read to him the accused pleaded not guilty.”

Witness - V. S. Gillespie, resident of Paducah, Ky. occupation clerk in queens-ware store.

Question “...what if anything, you ever heard him (Paine) say respecting Major General H. W. Halleck.

Question was how the conversation started - “In a controversy that Genl. Paine had with Mr. Etheridge, it took place in our house, it was shortly after General Paine came here, they got into a controversy and General Paine spoke of General Halleck as being a damned coward. Mr. Etheridge then called his attention to it and claimed that he had as much right to speak

disrespectfully of civil officers as he Genl. Paine had of his superior officers. Genl. Paine then repeated it again and said that General Halleck was a G-d damned coward, and went on to say why; something in regard to an engagement that had taken place at Corinth. Genl. Paine gave his reasons for doing so in a very able manner.”

Question was when conversation occurred - “If I knew the time General Paine took command here I could tell. I don’t know whether it was in July or August of last year. I don’t recollect when the General came here, but it was a short time afterwards.”

Question was where conversation occurred - “It occurred at forty seven Broadway at the queens-ware store in this city”

Question was on subject of conversation - “Mr. Etheridge had been around here preaching up what we call copperheadism – that Mr. Lincoln was wrong – that the whole fabric of the government was wrong and he came into our house. There was some gentleman came in for some goods, it was the second time I had ever seen Etheridge and the first time I ever saw Gen. Paine ... General Paine asked him what the subject of the conversation was, Mr. Etheridge then went on to state that it was something in regard to society and schools. General Paine then said I understand that you are here preaching up copperheadism, I command this dept. and I don’t want you to continue it. The general told him that if he wanted to preach up copperheadism he could go to Ills. Mr. Etheridge said he wanted to call on the general and see if he could make a speech here. I think the general consented that he should make a speech – the conversation still went on, Genl. Paine was a very good talker and so was Mr. Etheridge and I quite excited listening, and listened pretty sharply, but in a queens-ware store you have to watch pretty sharply or people will break or steal a heap of things, there was a considerable crowd gathered around. I was paying the best attention I could although I did not get the hang of the whole of it.”

Question was “were both parties angry and was Etheridge ordered away” – “No sir if he was ordered I never heard it. I don’t think they were angry. I could not say that they were. Gen. Paine appeared to be calm and so did Mr. Etheridge, both very calm under the circumstances.”

Question was “where did you reside at the beginning of the war” – “In Mississippi”

Question was have you been a “firm supporter of the United State government” – “Yes sir and have been from my infancy.”

Question was did you vote for secession – “No, sir.”

Witness - John Sinnott, resident of Cincinnati who was purchasing mules for the government at Paducah.

Question was what he heard regarding General Halleck – “I don’t know exactly when it was, it was sometime last summer, I had seen him once or twice, I saw him in a china store, him and a man who had been pointed out to me as Emerson Etheridge, I heard the conversation between him and Genl. Paine. In the conversation they said something about the armies when they were at Corinth. Gen. Paine and him were talking about it. I don’t know exactly on what subject and General Paine said that Gen. Halleck was a coward or something to that effect.”

Question was “repeat the very words” – “I think the words he used was he was a damned coward, I would not be positive I think that was it, the conversation was of rather a cross nature between the two men. I think that is the remark made I would not be positive but to the best of my belief it is.”

Question was when the conversation occurred – “It was not long after Genl. Paine arrive here I think he had not been here more than a week.”



Question was where conversation occurred – “In the store of Robins and Co. in this city – the china store, I think it is.

Question was did Etheridge provoke Paine by declaring the rebels were “better soldiers and better commanded.” – No sir, I did not hear that word said by Mr. Etheridge. I heard Genl. Paine say that if the federal army had been allowed to advance on Corinth at the time it was occupied by the rebels their whole army could have been captured. Mr. Etheridge said that he had himself sent women to the rebel army to get the men to come home and Genl. Paine remarked that if the federal army had been allowed to advance they would have captured them and carried them north.”

Question was Etheridge ordered to leave the post – “Yes sir, I think I heard Genl. Paine say that he should leave here. Etheridge replied that he wanted to stay a day or two in order send his daughter home and then he would leave.”

Witness – Alexander R. James, resident of Paducah and physician.

Question was what remarks were heard regarding General Halleck – “I could not specify the time it was when the Genl. was in command here I was passing up the street and saw a collection of people in front of the queens-ware store on Broadway, out of curiosity I stopped. I remained there from the fact that I saw Mr. Etheridge and Genl. Paine in quite an animated conversation, I staid and heard a portion of the conversation, I left before the crowd dispersed. I heard him make some remarks, the remark was as well as I recollect to this effect was rather disparaging – for his cowardice and rascality, he was merely speaking in regard to his management of his affairs at Corinth, I was struck with the remark from the fact that I knew they were both regular officers, West Point men, and it struck me at the time that I had never had heard one regular officer speak of another in such a language.”

Question was what was the language used – “I think if I am not mistaken; he was very excited; the expression that he used was that he was a damned coward and a damned rascal.”

Question was on location of incident – “It was in a store belonging to Mr. Robins on Broadway in this city”.

Question was when did the incident occur – “I cannot specify the day of the month or what time it was – sometime after Genl. Paine took command here that Mr. Etheridge came here I don’t know what time he took command here I had no business with the military and never went near them.”

Question was did Etheridge taunt Paine – “No sir, I do not recollect that he did, I would simply state that my father was a regular officer and I had been accustomed to being among them.”

Question was are you a firm supporter of the government – “The United States government? Yes sir, I never had anything to do with secession. I always supported the government.”

Question was have you taken the oath – “I took the oath under Brigadier General C. F. Smith he issued an order to all citizens, he said that he wanted all the citizens to come up and take the oath. I just took the oath as a matter of form that I consider the oath of allegiance.”

Question was at what time did you take the oath – “It was when Gen. Smith was in command, I think it was in the latter part of 1861. I think the federal troops occupied the place on the 5<sup>th</sup> or 6<sup>th</sup> of September 1861. I cannot state whether it was in the latter part of 1861 or not. I think the order read that all within reach of the cavalry arm were required to come in here and take the oath of allegiance to the government of the United States.

Question was what meant by ‘matter of form’ – “I mean this that I had always been loyal and that everybody knew the position I occupied here. I had been notified by the secession party to

leave. I sent the notice to the Louisville Journal and it was published and I had gone across the river the day before the federal forces came. I left because I expected General Polk was coming to occupy the place the same day Genl. Smith did.

Question was have you remained loyal since taking the oath – “I expect I have. I put a substitute in last September. I was not drafted. I think I have, I believe I have according to my ideas.

Witness – R. O. Woolfolk, resident of Paducah, not engaged in any business

Question was how long have you known General Paine – “The first time I knew him was when he first came here directly after the place was occupied, I think in 1861 the fall of 1861.”

Question was what remarks had he heard regarding General Halleck – “I think it was in July last sir, it was at least directly after General Paine took possession of Judge Campbell’s house as his headquarters; I was in the office doing business and heard him denounce Genl. Halleck as a damned coward and as having played into the hands of the rebels, that I think was the remark sir...”

Question was have you taken the oath of allegiance – “Yes I have sir a half dozen times since this war commenced. I could not give dates. Once whilst Major Kuhns, I think, was in the office I could not recollect the time sir. I have taken it several times when making applications for a pass and when there would be restrictions here upon going out you would have to take it. I think once while Major Culbertson was Provost Marshal, I have taken it a half dozen times as a grand jury man, we always have to take it, it was while Judge Marshall was holding his court here, I don’t recollect the dates sir.

Question was have you been in the rebel service – “I never had sir.”

Question was “did you purchase goods of Wolfe in Paducah, Ky. in 1861 or 1862 and send them to Columbus, Ky. for any officer or soldier of the rebel army or connected with said army” – “I did not sir.”

Question was did you take letters to the rebel army – “I never did take letters sir in my life to the rebel army. I have sent letters south sir, but I always had them endorsed and approved before they were sent.”

Question was you arrested for carrying letters unlawfully – “I was not. I was arrested, I got permission from Col. Noble to go through the lines after my mother and just this side of Dresden I came up with a body of cavalry belonging to our service and was arrested and carried in there. I showed them the pass and after they had got in there they permitted me to go in sir, it is the only time I was ever in the rebel lines. I never went into the rebel lines without permission never but twice and then after my mother who was southern. I want to change one answer that I made I was asked if I ever sent letters south when the war first broke out before there was any interdiction. I wrote to my brother once or twice at Columbus, but after I found there was an interdiction. I never wrote until after I had them approved.”

Question was “did you ever say that you was a rebel and that you would never submit...” – “I don’t recollect that I ever said that. I have said that I was a sympathizer with the south. I always said that I preferred seeing this government as it was.”

Question was did you know or advise the attack on the picket line near Allen’s fence – “I was not present and did not advise it nor did I know of it until twelve o’clock the next day.”

Question was did serve with Captain Lloyd Tighlman’s company – “I did not sir.”

Question did you sell and send a horse to your brother George Woolfolk in the rebel army – “I did not...”

Question was did send medicine and clothing to your brother – “I did not sir. I never sent any medicine south to my brother in my life except when he was a prisoner at Johnson’s Island. I would like to make an explanation in regard to the horse, I bought I traded off for another and I bought and traded off for another and I sold him to a daughter of Dr. Temple at least the horse was taken and returned to Mrs. Temple by General Grant. I think General Grant was in command at Memphis at that time.”

Question was “did you object to having a U. S. flag put upon your house and say if it was there you would move out” – “I did not I objected to it being put upon my house [but] in the manner in which it was attempted to put it there. The flag was being put there by some of the 11<sup>th</sup> Ind. Regt. under the command of Col. [Lewis] Wallace. Gen. Smith was in command here and sent for me and asked me if I objected. I told him that I did not want it done in the manner in which they attempted to do it and that if Col. Wallace would send me a flag I would put it up myself, that I was a citizen of Ky. and if the United States and that as long as Ky. remained in the United States I would be loyal to it, it was the flag I was under.”

Question was “did you keep rebel flags in your house and exhibit them” – “I might say I did and did not. The way the flag came up was this, Dr. Fry who is a cousin of my daughters was stopping at my house and my daughters asked him if he would wear a rebel flag if they would make one and he said yes and they made a flag and that is the only rebel flag that has ever been in my house, was the one made and given to Dr. Fry – it was about the length of my finger and was made of ribbon.

Question was “did you last Friday morning say at the market house in Paducah that it Genl. Paine came to this town you would shoot him” – “I did not sir.”

Question was did you say General Paine should be hung – “I don’t know but I said it sir.”

Question was did you pledge a “parole of honor not to leave Paducah without permission if accused” – I never gave my parole of honor to Genl. Paine. Genl. Paine sent for me in latter part of the week and told me that he intended to send me and my family to Canada. I told him that it was utterly impossible for me to leave that I had a large family and wanted to know on what grounds I could remain he told me that if I would be endorsed by three men in town here he would let me stay. I asked him who they were and told me. I told him that they could not endorse me, one of them was a man I did not consider to be a gentleman and the others did not know me. I then asked him to name another person to endorse me as regards to my loyalty and he said he would not talk about it. I then asked him if he would take Dr. Stearn who was a medical director and had been an inmate of my house. He remarked that he would entertain what Dr. Stern would say, I then asked him if he would take Col. Allen and he said that what Col. Allen would say would have great weight. I then referred him to several other men here, who knew of my having an interview with General Sherman, he remarked that Genl. Sherman did not know me did know what a damned rebel I was. As he said that what Col Allen would say would have great weight for me and as Col. Allen was at Cairo, I went to Genl. Paine and asked him for a pass to go there, I told the genl. that I would go and return on the same steamer and offered him any bond he might require he said he would not take the whole town on my bond and remarked that he had not yet made up his mind whether he would send me to hell or to Canada, that evening a gentleman came to me in town (I had given any parole) and said ‘you had better leave here for you stand at the head of the list and they are going to shoot Kesterson tomorrow and you will be held as a hostage, that night I left. I had no idea of leaving ten minutes before I did. I went to see my father in law- I found no guard on the boat and got on and left.”

Question was have you been loyal citizen – “I have been a loyal citizen in every act and deed that I have done to this government so far as I believe that if a man obeys the laws he is a loyal man.

Question was “what gave the occasion for putting a U.S. flag on your house” – “... at the time Dr. Fry left there and my daughter carried him this flag, a daughter of Dr. Calaway in town about the same age as my daughter proposed making one for him and they happened to meet at my back gate and was comparing them when some soldier was passing and saw the flag and that it I suppose what gave rise to it.”

Question was who was the commanding officer that you proposed as a reference – “Col. Hicks”  
Question was “have you ever rejoiced at the success of the so called Confederates” – “I have sometimes sir”

Question was what caused Paine’s remark about Halleck – “It was at the time I went to him for the pass and he remarked to me at the same time that when he was in command of this place before that he would have had me shot then if his hands had not been tied by that god damned coward Halleck who had played into the hands of the rebels, and that now he was not responsible to anybody but the President of the United States.”

Witness – V. S. Gillespie recalled for further questioning

Question was what exactly was said regarding Genl. Halleck and who was “quoted as authority” – “After reflecting over that I think that Mr. Etheridge quoted him as authority, and Genl. Paine I think remarked if Mr. Halleck was here he would be more severe than he was or something of that sort... Mr. Etheridge asked General Paine the permission to make a speech. General Paine rather consented that he could make a speech provided that he would exhort the people here, (he said that they had been led astray) to stand by the country, the Union, and the Constitution at all hazards and told him if he wanted to make that kind of a speech he could do so. Etheridge said that there should be an armistice and Genl. Paine said not that, that would be an acknowledgement of the southern Confederacy and that was thing he would never consent to, and he told Mr. Etheridge that if he would make a speech exhorting the people to stand by the government he could do so, if not, he could not – nor anybody else here.”

Question was the exact words – “I could not tell in what way what the precise words were, I know that Mr. Etheridge quoted him as authority that he had done so and so; this conversation lasted some two hours and both gentlemen being very glib on the tongue there was a great deal said it would be impossible to remember all that was said, Mr. Etheridge was claiming the right to preach up his copperheadism and said that Genl. Halleck had allowed it to be done in his department. I could state that Etheridge said something about controlling the elections and General Paine told him that he did not care who he voted for, to vote for who he was a mind to and he should do the same.”

At 3 o’clock p.m. the court adjourned until Saturday February 18<sup>th</sup> 1865 at 10 o’clock a.m.

The court met at 10 o’clock a.m. pursuant to the adjournment of yesterday.

Witness – W. P. Caldwell, resident of Paducah, dry goods merchant

Question was what remarks were made in regards to General Halleck – “I state sir that I did hear Genl. Paine make some remarks in reference to General Halleck. I heard him make these remarks a few days, two, three or four days after Genl. Paine came to take command of this district, as to the precise time I cannot be positive perhaps about the last of July or the first of August, it was in a queens-ware store of Robins and Williams in this city on Broadway Street, in

a verbal altercation with Emerson Etheridge, I did not hear the whole conversation but I heard a good portion of it; I heard him just speak of Genl. Halleck as a god damned coward, I could state the connection if necessary. General Paine was impugning or questioning Etheridge's loyalty, he wanted to know, if he was a loyal man why did he not take up arms. Etheridge said that he thought he could do more good for the country by keeping men out of the rebel army and by inducing them to desert and perhaps he had kept as many men out of the army as Genl. Paine had ever captured. Genl. Paine remarked that he had taken six or seven thousand at Island No. Ten and but for that god damned coward Halleck he would have captured a great many more at Corinth.

Question was did Etheridge state that he did not care a damn for General Halleck – "I don't recollect that way sir. I never heard that sir.

Question was "did not Etheridge claim that General Halleck's views were different from those of accused and did he not taunt me by saying that the rebel army was better than ours and had better officers than ours" – "No sir nothing of that sort happened in my hearing or was said."

Question was what did Etheridge say about Halleck – "Well, I do not remember that Mr. Etheridge or the Genl. either made any remark in reference to Genl. Halleck's policy further than what I have stated I don't think his policy was in controversy - the use of his name seemed to be incidental. Mr. Etheridge took up Genl. Paine immediately on the remark and said that he could not speak in such terms of the President without being threatened with a ball and chain when Genl. Paine could speak of his superior officer in such terms, that is all that was said by the Genl. or Mr. Etheridge either with reference to Genl. Halleck that was the end of the conversation as I remember it.

Question was are you a loyal citizen – "I answer that question affirmatively sir. I am now and have been.

Question was have you sought any advise outside of the court – "I don't remember that I have conversed with anybody upon the subject of what my evidence would be."

Witness – G. F. Rabb, resident of Paducah, bank cashier of Watts, Given and Co.

Question was what were the circumstances that led to the money being paid to Mrs. Birmingham or J. E. Woodward – "Yes sir, the bank was required to pay that money to J. E. Woodward after the death of Thomas Birmingham, she applied to me to pay her the money several times and as frequently refused to pay her the money from the fact that I had consulted an attorney and he informed me (and I also knew before) that it would be necessary for her or some other person to administer on the estate, he had left an infant child and that child should have a guardian appointed and I told her that when these things had been done I would pay the money."

Question was can you produce the order from Paine to release the money to Ms. Birmingham – "I can sir. If the court please, I will make one statement in regard to this matter. I found out after Mrs. Birmingham came to collect this money that it in all probability would be collected and in the absence of Mr. Given I had no opportunity to consult Genl. Paine. I saw his son who was acting as Adj. Genl., he was on horseback at the time and I called upon him as he was riding along. I told him that I understood that there would be an order issued to coerce the payment of this money and that I would like to have him reflect about the matter, that the money was there to the credit of Thomas Birmingham deceased and that his wife nor no one else had the right to draw it and that if the money was paid to some one authorized to receive it that would be an end of the matter so far as the bank was concerned. Young Paine in substance replied to what I said that the matter had been canvassed or talked about and the order would be issued... The witness

then said, if you please I would make one other statement. I said that Birmingham had a thousand dollars in the bank to his credit the check is only drawn for nine hundred and eighty dollars it was after Mrs. Birmingham came several times for this money and wanted some to buy family supplies I remarked that I would pay her twenty dollars saying that I would rather the house would lose the money or I would lose the money myself rather than she should not have something to go to market with, or that she should suffer. The money was paid on her check.”

Question was explain the transactions related to C. O. Allard – “At the time I refer to C. O. Allard had as well as I recollect from the face of our ledger about twenty eight thousand dollars to his credit. J. L. Allard and William Crosier (I think his name is William) had a flouring mill at Humbolt, Tenn. and whilst they were engaged in business there the army took possession of that country and there was a great deal of cotton through that country and a great many people were very anxious to buy it as it was selling cheap, J. L. Allard came in from Humbolt and made a verbal arrangement with William Crozier to buy cotton in that country and it was understood that Mr. Given would furnish the money or sell the bills. Allard and Crozier got various sums of money and made investments in cotton and shipped it to New York the cotton was sold and Allard and Crozier controlled all the profit that was made in that investment. Mr. Given finally called upon J. L. Allard and said that it was time to have a settlement and made an arrangement that C. O. Allard should not check out closer to a balance than eight to ten thousand dollars as J. L. Allard had used the profits and it was agreed that the house Watts, Given and Company should use the money or in other words the account of C. O. Allard should not be checked down nearer than ten thousand dollars, C. O. Allard was aware of this arrangement in regard to his father and said nothing about checking for the same for sometime until Mr. Given had left for N. Y. with his family and the last injunction that Mr. Given laid upon me as he came to the counter before starting was that he did not want C. O. Allard to check that amount out. I was acting as his cashier and was subject to the rules and regulations of his bank and I felt it to be my duty to obey his directions. I will say now that after Mr. Given left home C. O. Allard came to me and attempted to check out the account. I refused to pay his check and told him the reason why that his father had made the arrangement and told him that Mr. Given would soon be at home and the gentlemen would much better settle it than I could. C. O. Allard accordingly said nothing more about it until General Paine took command of the district and after General Paine took command here he executed his check payable to J. E. Woodward to draw the eight thousand dollars. The balance he had in the house, the check I think was executed on the 8<sup>th</sup> day of August. I refused to pay knowing as I did the previous arrangement Allard and Woodward were very unfortunate in regard to obtaining the money. I told them that I did not feel authorized to pay the check that I wanted time until I could hear from Mr. Given by letter or by telegraphic dispatch and I slaved the thing off from the 8<sup>th</sup> to the 16<sup>th</sup> the day on when General Paine issued his order to which the money should be paid to J. E. Woodward. I had an interview with General Paine prior to the issuing of this order and attempted to lay before him the facts in regard to business matters which I did in substance what I have stated in court and wanted him to defer any action in the matter and told him I thought it was a matter that could be better settled between Given and Allard, a day or two afterwards the order was given for the payment of the money.”

Question was did Watts, Given and Company engaged in contraband trade during the war – “I was absent from here in 1862 for ten months that is from 1861 to 1862 after my return to Paducah I came back in June or July of 1862 if they were engaged in that trade I didn’t know of it. If in 1863 or 1864 they were engaged in anything of the sort I didn’t know of it.”

Question was “why did Watts, Given and Co. furnish a man by the name of Wilhelm gold to take through the lines clandestinely” – “I cannot answer that question sir, if they furnished Wilhelm any gold. I don’t know what it was done for.”

Question was where is Wilhelm now – “I understand he is living at Jackson, Tennessee engaged in merchandizing...”

Question was “at what time Wilhelm was running contraband cotton through Missouri from near New Madrid to Commerce, Missouri in order to avoid the gunboats and federal lines” – “If he ever run a pound or bale of cotton through that point or any other I don’t know it.”

Question was “are all the members of the firm” loyal men – “Mr. Watts has not been here since the breaking out of the rebellion, he passed through this place about that time, he was telegraphed by Mr. Given to leave New Orleans and go to New York and go into business if he has not been loyal I don’t know anything about it. If Mr. given has been guilty of any disloyal act I don’t know it he has taken the oath of allegiance several times the other brother does not live here but lives in Smithland, Kentucky. I think he is a loyal man.”

Question was are you “a true loyal man” – “I think I have sir. At least I have taken the oath of allegiance to support the government and have furnished a substitute to the federal army.”

Question was “did Watts of that firm say that he would rather his dwelling house would sink into hell than be occupied by federal officers” – I never heard of his saying so sir, if he ever said it I never heard it.”

Question was “do you not know that gold was seized by the military authorities in possession of Wilhelm and afterwards claimed by Watts, Given & Co.” – “I don’t recollect any such circumstance.”

Question was how many sons does Watts have in the rebel army – “None that I know of sir, he has one son in Europe and the other is in New York with him sir. The other son is in Liverpool doing business.”

Question was how many of Watts’ sons have been in the rebel army – “My impression is that one of his sons was in the rebel army at one time, but how he got out I can’t tell you.”

Question was “what was Wilhelm’s business with Watts, Given & Co. and when” – “I cannot state the kind of business he had with him or the amount of money he received from the house”

Question was “have you never rejoiced at the success of the so called Confederates” – “Upon one occasion sir, it was at the first battle of Bull Run.”

Question was is Mr. Watts or Mr. Given unqualifiedly loyal – “I would not say Mr. Given is unqualifiedly so. I think that Mr. Given has had his southern sympathies, in fact I know he has. Mr. Watts has not been here within three years and I have had no communication with him, my impression is from what I’ve heard that he was a loyal man sir, he has been so regarded. I have so regarded him. I have stated that D. H. Given lives in Smithland, I think he is a loyal man.”

Question was in what manner did you rejoice over the success at Bull Run – “I don’t think I recollect exactly in the manner I rejoiced at it, there was a good deal of southern sympathy in this town at the time.”

Question was “did you join in any public exhibition” – I don’t recollect precisely whether there was an illumination here or not, it strikes me there was I think I showed some lights at my home and at my fence, it was very general thing in town.”

After checking the books Rabb stated “I find Thomas Birmingham account balanced by the payment of a check of nine hundred and eighty dollars to J. E. Woodward on the second of August...”

Witness – J. E. Woodward, resident of Paducah, city treasurer

Question was what do you know in regards to Mrs. Birmingham – “Mrs. Birmingham called on me and asked me if she could get some money she had in the bank, she stated it was money she had earned herself and that she had supported a sick husband for two years and that she had put the money in the bank, her husband died and she wished to draw it out as she had nothing to go upon she said they had refused to let her have it, she did not know why, she was an uneducated woman and did not know why it had not been paid to her, she asked me if the money could be drawn out. I told her I thought it could, that if she would get an order from Genl. Paine it could be drawn, somebody had told her that if it got into the lawyers hands she would never see any of it besides that she wanted some of it for immediate use and she asked me to go and get an order from Genl. Paine for me to draw the money for her I told her I would do so and I applied to Genl. Paine and he gave me an order on Watts, Given and Co. to pay me the money.”

Question was what do you know in regards to C. O. Allard – “Mr. C. O. Allard told me he had eight thousand dollars in the bank that had been there some time I don’t recollect the time something like a year. I saw by his bank book in their own handwriting that there was a balance due him of eight thousand dollars. I asked him the reason why they would not pay it to him, he said he did not know unless it was his father and Crozier had gone into a cotton speculation together with Given in which they made twelve thousand dollars that is four thousand dollars each. Four thousand for his father, four thousand for Crozier and four thousand for Mr. Given. Crozier and his father used all the money and did not pay Given his four thousand dollars.

The court, at 3 o’clock p.m., then adjourned until Monday February 20<sup>th</sup> 1865, 10 o’clock a.m.

The court met pursuant to adjournment on February 20<sup>th</sup> 1865 at 10 o’clock a.m.

J. E. Woodward testimony continued.

“Then Allard and Crozier had shipped to New Orleans five thousand dollars worth of flour which was sold by Given, Watts and Co. I saw the account current from them and an order also for the house here to pay that that five thousand dollars to Crozier in confederate money. Allard and Crozier refused to receive it in that way and held on to the four thousand dollars which they made on the cotton and then Watts, Given and Co. held on to eight thousand dollars which young Allard had deposited there because Allard and Crozier had held on to the four thousand dollars made on the cotton. That is where they split. They were keeping young Allard, this C. O. Allard out of his money merely because his father and Given had made a trade which they could not settle. C. O. Allard called on me and asked me if I would introduce him to General Paine and I did so. He asked me if I would introduce him to General Paine and I did so. He asked me if I would ask General Paine to issue an order that he might draw his money, the eight thousand dollars due him in the house of Watts, Given and Co. He said he wanted the money to start the mill with and for other purposes. I asked Genl. Paine if he would issue an order of that kind and he did so. The first order he issued was a very gentlemanly one. I took it to Watts, Given and Co. or to their agent. Given was in New York all this time. Rabb was his agent and Rabb refused to pay it. I took it back to General Paine and he then issued the order which you have here. I took that order back and he paid the money. When Given came from New York, I asked him if I had done him any injury in getting that order from General Paine. He said I had not. He said he owed the money and would have paid it himself if he had been here. I told Given that Allard and Crozier owed him anything he could not get, I would get the same order issued for him or a similar one.



Question was “why did I (Paine) wish C. O. Allard to draw this money” – “I think it was because the General expressed that he would like to see the mill running.”

Question was “it important to the government to have that mill running” – “Yes sir, I think it would have been some advantage to have that mill running. They grind feed there and make bran which is useful for sick horses or anything of that kind and the citizens find it very convenient to get shorts for cattle and horses.”

Question was “would the mill assist the authorities in flouring grain” – “Yes sir, it would, as there was no mill running in this place or likely to be.”

Question was “are any of the firm of Watts, Given and Co. loyal” – “They were considered by everybody as southern sympathizers. They were considered nice men and good citizens. Mr. Watts I don’t know about, he was in New York. Mr. Given I have never seen do any disloyal act, unless it was his anxiety to sell goods to the south to make money. I must say that Given was a good citizen and tried to stop union citizens being run off. It was at one time dangerous for a union man to stay here, and I think he opposed sending union men away. At the same time he had a son in the rebel army and sympathized with the south and had a long face when the federal army was victorious and Rabb the same.”

Question was did any of the firm illuminate their houses after the Battle of Bull Run – “I am under the impression they all did, but I could not say certainly they did, as I did not live adjacent to them but I can assure you there were very few who did not illuminate. I don’t know but two or three houses beside my own that were not illuminated. I didn’t see it, but I have no doubt but every one of them illuminated.”

Witness - J. A. Brackin, resident of Lovelaceville, occupation miller

Question was what was your relationship with Mr. Yeiser – “So far as any correspondence or any transactions between my self and Mr. Yeiser, I was sent for some time back to come to this place. My orders were to report to headquarters, which I did. After I got here, I learned from Genl. Paine that it was a certain note held by Mr. Yeiser which I must and should take up, if not my mill and possessions would be destroyed immediately and I thought best to pay it off to save my possessions. So there was a little note drawn at headquarters and borne by me to Mr. Yeiser. Mr. Yeiser after looking at it appeared to be very much astonished. Well I paid to Mr. Yeiser the money - he could not produce the note but gave me a receipt against it. He also went with me to headquarters and promised General Paine that he would produce the note to him. That was the end of the payment. I paid the money to Mr. Yeiser. Mr. Yeiser afterwards found the note and it was returned to headquarters.”

Question was “did you owe Yeiser any money” – “No sir, I never did in my life, Mr. Yeiser said he had no claims against me whatever.”

Question was did you have a lawsuit against Edrington – “Yes sir, there was a suit pending but never came to a hearing, it had been called and dismissed – there was no suit pending at the time.”

Question was who dismissed the suit – “Well by military power. I was compelled to dismiss it myself.

Question was the suit dismissed before you met Paine – “Oh, it was sometime before. I think it was twelve months before.”

Question was were you operating the mill in November 1861 – “The mill was in Lovelaceville, Ballard County in November of 1861. I was running it I believe a portion of November, the first part of November it was stopped.

Question was “did you manufacture flour which was taken to the rebel army at Columbus” – “Never sir, not a pound, not a pound, never sir.”

Question was were you at the time loyal – “That was my principle before there was a uniform put on, when South Carolina jumped off it was my principle to bring it back though I have been a silent man my business and situation required me to keep still but that has been my feeling all the time, as everyone who knows me is aware.”

Question was your mill closed in November of 1861 and by whom – “I was closed I think the 17<sup>th</sup> of November 1861, if I recollect right. The first thing I knew about anything was – I was doing nothing wrong that I knew of – first thing I heard was some person thumping and pounding at the mill like of some person was tearing it down or bursting it open. I got up and went to the door and I saw a great many fires burning over my wood yard. I suppose it was somebody passing from Paducah to Columbus. I went down and mixed around them till probably an hour by sun and could hear nothing but the voices of soldiers, teamsters and such alike ... Colonel Hicks was the superintendent of things about the mill and the mill fixtures stock and appurtenances was taken to this place and me with it.”

Question was who was placed in charge of the mill – “I never knew until after I was brought to this place, I was brought here and kept forty days. I never knew who had control of the mill until after that time, there was a gentleman living in town who supposedly nailed up the windows and doors, but where the key was I never knew until the forty days had expired.”

Question was “is Lee Edrington the same man whose note you paid to Yeiser” – “After I was brought in and tried in this place and acquitted, Judge Willard the judge, I was tried before on the Court Martial, told me to go home and demand the keys. I went home and made enquiry about them and learned that Mr. Lee Edrington had the keys. I came back to see Judge Willard and get an order for the keys and he told me that if he did not deliver the keys up to me to report back to him and he would have the keys delivered to me forthwith, so when I went back to Edrington with these words and principles he delivered them up and I went to work to reinstate the mill and get it to work and it has been running ever since.”

Witness was asked the question again – “I suppose he is the same man. I had never seen his name, that was what I understood from General Paine. The note that I must lift was made to him. The note I never had seen and did not know it was out, I could not tell why, it might have been something in regard to this suit that had been pending. I don’t what arrangement Mr. Yeiser had made.

Question was did you bring suit against Edrington – “Yes sir, by the direction and advice of this man Willard. I was tried before him – he said the parties had wrongfully informed against me or given wrong information. The gentleman that made the information to General Paine it was made out in an order and laid on the table. I never knew anything about it until I was brought down here for trial, after I had been confined forty days. The same man who made the first report presented himself and swore that he knew nothing about it and the other witnesses followed him in the same manner. The judge advocate rose to his feet and says I shall take the privilege of discharging this man, he has proved a better course and that he is a better loyal man than I am, by their own witnesses during the war. I never presented anybody nor knowed nothing about it at the time.”

Witness was asked the question again – “It was because he held possession of my property to the destruction of my stock and depriving my family of their support.”

Question was who gave the order to dismiss the suit – “By my order of Colonel Husband dismissed the suit – went to Blandville, Ballard County and dismissed it. If I recollect right it

was last March a year ago, then has been so much up and down it has passed my mind whether it was last March a year or two years, I think it was last March a year ago that is will be two years next March.”

Question “was Lee Edrington one of the persons who gave information against you” – His name was on the list of witnesses that was called for and laid upon the table that I know of.”

Question was who is Col. Husband and what is his business – “He is a lawyer here at this place is living and has since I have been acquainted with him I have laid in the state. He is not a military man to my knowledge. He just goes by the name of Col. Husband, that is a common way of talking.”

Question was why did you dismiss your suit – “It was because I was brought to this place and put in prison my friends informed me that the order was to keep me in close confinement until after the session of the court and I could not attend to the suit and I thought it best to dismiss it.”

Question was why were you arrested – “It was a few days before the court was to meet no cause was made known to me only through my friends who came to see me and there was no charges made against me no presentment of any charges I could not tell what the cause was.”

Question was “when was the interview between yourself and accused” – “it was in the fall or forepart of the winter of 1864. I don’t recollect the month. It was before he left this place. It was before General Meredith took command.”

Question was did Paine give you reason to Yeiser – “He told me that he put Mr. Edrington in possession of my property and that I should pay this note that Mr. Edrington had given Mr. Yeiser that I should pay it – if I did not he would send down and burn my mill up – that he put him in possession and I should pay the note off.”

Question was Paine’s order verbal or written – “It was written”

Question was can you produce the order – “No sir, I cannot produce it. Genl. Paine received it himself and filed it. He receipted on that order that I brought back and held Mr. Yeiser bound to bring back that note.”

Question was “Did I (Paine) not require you to pay the note because Edrington was placed in charge of your mill by my order which he was compelled to obey and if any person was liable it was myself – that the suit was only brought to harass Edrington” – “...I don’t recollect that he said the suit was brought to harass Edrington.”

Witness – P. D. Yeiser, resident of Paducah, attorney at law

Question was money paid by Brackin to you – Yes sir, there was two hundred dollars paid to me by John A. Brackin it was in payment of a note which I held against a man named Edrington, I cannot remember his first name just now – the note sir was for two hundred and fifty dollars. Mr. Brackin brought to me an order written by General Paine to Mr. Brackin directing him to take up the note for two hundred and fifty dollars which I held on Mr. Edrington. I told Mr. Brackin at the time I did not believe I could find the note and I thought that it was only for two hundred dollars. I went to my office and hunted it and could not find it but received from him two hundred dollars which was to be in full of the note, then at Mr. Brackin’s request I went with him to Genl. Paine’s headquarters and there either one or the other of us handed General Paine to the paper and I informed him that I had misplaced the note of Mr. Edrington to me – he remarked to me he wanted that I should find it, I told him that I would. I went back to the office and after searching found it I found that it was for two hundred and fifty dollars then I either delivered it to Genl. Paine in person or sent it to him in a note I forget which, however he got it and Mr. Edrington subsequently got it from Genl. Paine as he informed me.”

Question was “what was the character of the obligation” – “Mr. Brackin had sued Edrington and others in Ballard County Circuit Court for a large lot of grain and I think probably a jackass and some hogs which he alleged that Mr. Edrington in conjunction with Genl. Paine had seized and kept from him illegally. The extent of the suit was something over one thousand dollars. Mr. Edrington called on me to defend the suit for which he gave me his obligation to pay me two hundred and fifty dollars when the suit went off the docket. The suit had gone off the docket and the money had not been paid.”

Question was “What action did Brackin bring against Edrington” – “It was as I stated an action sounding in damages for seizure of property and trespass.”

Question was Edrington liable in any way to Brackin (after an objection by the prosecuting attorney and deliberation of court) – “I don’t think he was sir, from the proof I will state that I demurred to the petition and the court overruled the demurrer. After I had taken the testimony, I was sanguine that Brackin could have gained nothing. Mr. Brackin was not at the court at the time and the case dismissed; his attorney was present sir.”

Question was how did Edrington come to be in possession of Brackin’s property – “I would have to speak sir of it as coming from all the parties Edrington, Brackin and Paine, what I would state was not in conversation between the three together but in conversation first with me and then with the others. It appears in this matter that General Paine had gone to Lovelaceville with a force and seized Brackin’s property charging Brackin with giving aid and comfort to the rebels who were encamped below and he called Edrington to take charge of the mill and this property. Edrington objecting to have anything to do with it, General Paine telling him that he must take charge of it in that way Edrington got hold of the property. Afterwards it was given up to different parties in General Paine’s order Edrington contended that he did not wish to have anything to do with it and General Paine contending that he must obey his order. General Paine told me himself the time I took his deposition that if Edrington had refused he would have forced it upon him, that if he had not taken charge of the property he would have shot him. After Brackin had laid in the guardhouse for a time there was some investigation took place and he was turned out; whether he was restored to what property was left I don’t know. After he got out of the guardhouse he brought suit against Edrington for the value of the property that was missing.”

At 3 o’clock the court adjourned until tomorrow morning February 21<sup>st</sup> 1865 at 10 o’clock a.m.

February 21<sup>st</sup> 1865, 10 o’clock a.m., the court met pursuant to adjournment.

Witness – J. B. Husbands, resident of Paducah, occupation a lawyer

Question was what was the status of the Brackin case – “The suit is not pending but was dismissed by the plaintiff through me as his counsel at his instance and that of Colonel Dougherty.”

Question was who was Colonel Dougherty – “He was commanding the post at that time.”

Question was when was the arrangement made and what was the nature of the arrangement – “I cannot state the exact date – the substance of the arrangement was that Brackin and his witness Ansel were to be discharged out of the guardhouse on the condition that he dismissed his suit.”

Question was how long was he detained – “He was in the guardhouse at the time and had been in the guardhouse, I believe I am not certain, seventeen days, I will not be certain as to the number of days. When this arrangement was made and Brackin discharged General Paine had no

knowledge of it nor was he in this part of the country. I have no idea that Genl. Paine had any knowledge of Brackin's discharge or the arrangement made whatever.

Witness – Leonidas H. Edrington, resident of Metropolis, occupation a grocer

Question was what did you know in regard to the promissory note made to Mr. Yeiser – “Well sir, I know that there was a note, or my obligation given, or mine and those other men's, to Mr. Yeiser for a fee. Well I was up here last summer and Genl. Paine handed it to me. I named it to him when I was up that this fee I had promised to pay to Mr. Yeiser myself and three other men in a case that was caused by Genl. Paine's ordering us to take possession of a mill at Lovelaceville ordering me to close it up and stating that he did not want anything wasted that he wanted I should take charge of it. I don't know anything about the payment of the note it was receipted by Mr. Yeiser in full.”

Witness - J. Scott Ford, resident of Ballard County, occupation a farmer

Question was what property was taken from your possession – “Last summer sometime my stable and everything I had in it was taken I had my groceries in it I was living and had been living here for the last nine years. I rented my house. My groceries sugar and molasses and part of my furniture was in the stables.”

Question was who took your possessions – “That I don't know.”

Question was in whose possession did you find them – “They were found part of them at the Provost Marshal's and part at Adjutant Paine's or Captain Paine's.”

Question was what property was taken and what did you have returned – “Now it was a great many small things that I cannot think of – I cannot say I don't recollect what they were.”

Witness – R. M. Humble, resident of Paducah, occupation physician

Question was where were you in the summer of 1864 – “Part of the time I was in Mayfield my former home and part of the time I was in Paducah.”

Question was what was your business in Paducah – “Generally loafing about the streets.”

Question was what do you know of the sale of Mr. W. A. Bell's store – “I proposed to buy Mr. Bell out – he said he didn't know whether he would be allowed to sell or not. I think his store had not been closed, it might have been. I then told him I would see General Paine in person in regards to it and I did so and visited General Paine for that purpose and had a conversation with him. At first General Paine rather demurred and afterward consented that if Mr. Redd and Mr. Bartling was willing for him to sell why he was willing. As I came down the street, I met Mr. Bartling and Mr. Redd and spoke with them and they had no objections. I then saw the other party and got his consent also and went and closed the contract and made the bargain. After that my partner got dissatisfied after we had closed the contract and paid part of the purchase money and he proposed to buy me out or sell out and I sold out to him, my partner Mr. Mayes. The next day I learned through Mr. Mayes that part of the money had been paid to the Provost Marshal. Mr. Bell then came to me and as I had been the foremost man in the trade and said the purchase money must go to him. I told him that was my understanding and I think went with Mr. Bell to the Provost Marshal's office.”

Question was did you receive official orders from Paine – “No sir.”

Question was where was Mr. Bell's store – “Near the corner of Broadway and Water Street, I believe they call it that, it is next to the river in Paducah.”

Question was what kind of store was it – “A drug store.”

Question was what was the amount of the sale – “The amount of the sale I think was five thousand dollars. I think it was, I am not right certain now.”

Question was what amount of the purchase money went to the Provost Marshal – “I was not required to pay any, I will correct that a little by making a statement that I was not required to pay any of the purchase money to General Paine.”

Witness – William Bell, resident of Paducah, occupation druggist

Question was what were the circumstances regarding the sale of your store – “Genl. Paine assumed command here about the 19<sup>th</sup> of July last a few days after he appointed Maj. Bartling Provost Marshal which was a subject of congratulation with the citizens because he had resided here two or three years previously, after the arrival of Genl. Paine and before it was necessary that parties outside the pickets should obtain their permits for trading at the Provost Marshal office, shortly after the appointment of Maj. Bartling, it was discovered that the Provost Marshal did not endorse the bills of merchants, on going to the office it was found that it was necessary to prove their loyalty, upon his suggestion I took a friend that had resided with me for three years Mr. John E. Woodward who introduced me, the introduction had hardly taken place before General Paine in a tirade of abuse denounced me as a rebel and a copperhead and before the termination of the interview he advised me to sell out and go somewhere else. I remonstrated with him about that and requested him to take time and consider the matter, handing him at the same time a card upon which was the name of Major Bartling and several other citizens, he said that it was useless to take any more time that he was satisfied that I was a rebel that he could do nothing for me. I left him with the determination to sell out to the first purchaser I met with as I went down the street. I met Dr. Humble and proposed to sell out and succeeded in negotiating for a sale, I suggested or rather imposed upon him the task of going to General Paine and getting his consent to the transfer, with the distinct understanding that I was to have the benefit of the use of the money, Dr. Humble returned to me the statement that Genl. Paine had at first demurred but had finally consented if Major Bartling would first consent and Mr. Redd, the sale was accordingly made to Dr. Humble and a Mr. Mayes of Mayfield, Ky. that was upon Saturday afternoon of July 30<sup>th</sup> the terms of the sale was one thousand dollars cash in hand the balance four thousand dollars was a deferred payment having a short time to run. I heard nothing until Mr. Mayes returned upon the following Tuesday and stated that Genl. Paine remarked to him that two thousand dollars of that money was to be paid to the Provost Marshal, I resisted the payment of that money until several days afterwards. Mr. Weil who had become a purchaser of stock told me it was impossible to get a permit for goods sold by himself. I never visited Genl. Paine after the first interview at all but acted upon the statements of the parties who purchase my stock.”

Question was who received the proceeds of the sale – “The sale was perfected, I paid two thousand dollars into the hands of the Provost Marshal and received the remainder I received a receipt of the Provost Marshal which I have in my pocket. It is perhaps proper to state that the money has been returned although I have not conversed with Genl. Paine I understand it was with his acquiescence two thousand dollars was paid into the Provost Marshal’s hand and the balance of the purchase money I received myself.”

Question was did you make the sale of your own free will – “No sir I did not, my purpose in going to see Genl. Paine was to remove any difficulties in regard to trade and I expected to continue in business if there was no obstacles in the way – it was not done by my free will at all.”

Question was did Paine order you to pay two thousand dollars – “General Paine did not as I stated before. General Paine himself did not order me to pay the money.”

Question was did Paine order your store closed – “No sir, I cannot say that Genl. Paine ordered my store closed or directed it to be closed all that passed between Genl. Paine and myself was in that interview – there was no order to that effect that I know of.”

Witness – W. L. Mayes, resident of McCracken County, occupation farmer

Question was what occurred between you and Captain R. H. Hall – “With reference to that, the first I knew there was a letter at my house.” The letter stated, “If you don’t come in and pay me one hundred and fifty dollars for a horse which your son-in-law has in his possession and which was taken from Bradshaw’s pasture I will pay you a visit long to be remembered.”

Mayes continues “the following day I came to Col. Hicks with that letter when Genl. Paine took possession. I got the letter back from Col. Hicks. I was then in town with some tobacco I gave him the papers that I had to Genl. Paine to show what kind of a man I was – the letter he has kept he did not return the letter to me at all he returned the other paper.”

At 3 o’clock the court adjourned until tomorrow morning February 22, 1865 at 10 o’clock.

[page 124 of court transcripts missing]

Question was what reason was given by Paine to pay Hall – “Well sir all that my recollection serves me in reference to my son-in-law being in the southern Confederacy I have got a son-in-law in each army.”

Question was did Hall tell you that if you returned the horse you would have your money returned – “Hall told me that.”

Question was “did you tell me (Paine) that you could not keep your son-in-law away from your house, that he would come to see his wife” – “I don’t recollect telling Genl. Paine that.”

Question was what is the name of your son-in-law and where does his wife live – “His name is J. Cumfrey and his lives at my house in this county about ten miles from this place.”

Question was “did I (Paine) order you to go and bring your son-in-law Comfrey and the horse to this post and deliver them to me – “If I understood the General right he ordered me to go to the southern Confederacy and fetch my son-in-law to this place and if I did not fetch him he held me responsible for him and if I did not return he held my responsible for me. I don’t think he ordered the horse if my recollection serves me right – the horse was not spoken of to my recollection.”

Question was “did you not tell John Miller and D. Y. Craig that you was too smart to be caught by a Yankee General, that your son-in-law could do as he pleases.” – “Not that I recollect of.”

Question was “did you not tell me (Paine) that your son-in-law was at your house two weeks with that horse and you could not help it.” – “Not that I recollect of sir.”

Question was have you been a loyal man – “I have sir, I am now.”

Question was “did you not rejoice and go through your neighborhood after the fall of Fort Sumter and the defeat of the Union Army at Bull Run” – “Not that I recollect of at all.”

Question was “are you sure about that” – “These things are so long ago, I am just giving you my best recollection.”

Question was were you a rebel – “There is no rebelism in me sir, I am opposed to the proceedings of rebelism.”

Paine accused Mayes of perjury and asked the court to detain the man while he called for others to testify against Mayes statements. The court replied “that a court martial has no power to put a witness in arrest for perjury.”

Witness – D. Y. Craig, resident of McCracken County, occupation farmer

Question was what occurred in that interview between Paine and Mayes at District Headquarters – “So far as my relating all that occurred it would be impossible, I happened [to be] in the office and should have left without hearing the conversation but I was called on by Mr. Mayes to stop I did so. General Paine had a paper before him, I did not know what was coming up, directly afterwards the subject was brought up I don’t recollect who introduced it just at the time it had been up before, just at the time it was brought up the General Paine said to Mr. Mayes if you have been harboring about your house – he first said this is a good union man that has been robbed of a horse, it is alleged against you that you have been harboring the man who has stolen the horse at your house. Mr. Mayes I think then went on to say that he could not control his coming that he did not have the power of controlling armed men, I think Genl. Paine said that if he could not control armed men he could let it be known here where they could be controlled, I think there was a claim produced that Dr. Hall had made out a claim against Mr. Mayes it was produced before I was there, Genl. Paine told him that if he had been guilty of harboring those men he must pay that man for the horse.”

Question was “what is that son-in-law’s name and has he been frequently at Mayes before and since” – “He is commonly called Buck Comfrey. I never was him at Mr. Mayes house. I saw him at his gate riding off from me whether he had been in the house I could not tell. Another time I saw him in his lane riding up towards the house one time was just before and the other two or three days after the conversation took place (at headquarters), I did not see him at the house at all.”

Question was “what is the business of this Buck Comfrey” – “He was then when I knew him a rebel soldier or guerrilla.”

Witness – W. P. Tucker, resident of Union County, occupation farmer

Question was do you know of any troops under Paine seized property from Mrs. Fisher – “I don’t know it myself don’t know it personally. I live in the neighborhood.”

Question was do you know of any troops under Paine took property from F. H. Shouse – “I do not know anything of it personally.”

Witness – J. W. Hammack, resident of Union County, occupation farmer

Question was did Federal troops take property from you and by whose authority – “Yes sir, there was troops that took property from me I think as well as I recollect it was the 19<sup>th</sup> of August last year somewhere about that time – they took all my horses and cattle and destroyed all my furniture in my house, burnt them up, those that were not burned were destroyed, the pieces that was not burned was torn in pieces.”

Question was did you know which company or regiment those troops were from – “No sir”

Question was were you home at the time – “I was on my tobacco work on the farm. I did not go to the house until just as they were leaving. I saw them passing but when I reached the house they was out of my sight.”

Question was “how do you know that the troops who robbed you belonged to my command” – It was said they belonged to it, I cannot say that I know that they stated they belonged to Genl.



Paine – they did not tell me at all because I had no conversation with them. It was only stated there as rumor.”

Question was are you a Union man five years ago – “I have been in favor of the Union, yet my sympathies have been with the south to some extent, not that I wanted the destruction of the government. I was taken rather as a rebel because I was placed under bond.”

Question was have guerrillas or confederates soldiers stopped at your house – “I think as well as I recollect there has been two since the commencement of the war. I think there has never been but two in the last eighteen months. I am confident there has never been one inside my house that is that I know to be. There might have been some I didn’t know to be.”

Question was have you ever sympathized with the south or the capture of Union troops – “I suppose there has been times that I have at other times not, there has been times that I have done it. I could state that I have rejoiced at the capture of troops on the opposite side.”

Question was do you know who gave the order to destroy your property – “I do not know who gave the order.”

Question was have you furnished information, food or clothing to the rebels – “I have not given information either directly or indirectly to the so called confederates I can only state how far. The guerrillas of Johnson was camped near me, his pickets was within three hundred yards of my house – they sent and told me that they was going to send their men to eat there. I went to the camp and requested them not to come as my wife was in poor health – they sent men to me stating that they released me from that, if I would let them take what they wanted to the camp they gave me my choice to furnish them with provisions at my house or carry it out to themselves as to clothing I have a brother that is a prisoner held by the federals, I have sent him clothing while he was a federal prisoner. I got permission to do so.”

Witness – Allen Omer, resident of Union County, occupation farmer

Question was did Union troops take property from you – “I think it was on the 19<sup>th</sup> day of August 1864, by troops said to be commanded or in charge of Genl. Paine – they called at my house – they took three horses, three side saddles, one boy’s saddle, four riding bridles, four blind bridles and a quantity of rope. I could not state how much I suppose it to be about fifteen dollars worth they took also my hay ropes and horse ropes.”

Question was can you tell the court what troops took your property – “I cannot tell you who was in command I started on the next day morning to see Genl. Paine and on my way met a parcel of men said to be his men – they took my horse from me and I just walked back home but this horse was returned to me again.”

Question was do have any relatives serving in the rebel army – “Yes sir, I have a great many. I have a brother, I have a nephew, I think some three or four cousins.”

Question was have you fed guerrillas in the past three years – “Yes sir, I have. If permitted I would like to explain. I have never fed as low as two guerrillas I thought – I was able to manage that many myself but when they came as high as fifteen or twenty and as high as fifty I could not do anything with them they overpowered me.”

Question was did you ever report guerrillas in your neighborhood – “I cannot say that I have sir at the time that guerrillas fed at my house there was no authorities to report to unless Captain Finney who was Provost Marshal and he was not in the state. I have since he has returned.”

Question was were there guerrillas in your neighborhood on the day or several proceeding days – “Yes sir there were guerrillas at my house just one week from the day the troops passed. None

the same day none for several days. I don't know of any until about the week before that after Captain Finney came to town I reported them."

At half past one o'clock the court adjourned until February 23<sup>rd</sup> 1865 at 10 o'clock.

February 23 1865, 10 o'clock a.m.

The court met pursuant to adjournment.

Witness – W. S. Buckner, resident of Union County, occupation farmer

Question was what property was taken from you by Union troops – "It was taken from my farm on the nineteenth of last August, two horses, saddles, bridles an overcoat and gun and sword other things – they were taken by Genl. Paine's forces."

Question was how do you know they were Genl. Paine's forces – "Genl. Paine was in there, he passed along the road they were said to be Genl. Paine's forces."

Question was did you see Paine – "No sir."

Question was did witness Union troops taking the property of others – "I saw the same forces pass through with the property of Caleb Yucker with his horses, I saw them on the horses they passed by my house I know the horses I live next to Mr. Yucker."

Question was did you ever rejoice at the success of the Confederates – "I may have sir in some instances."

Question was do you oppose the employment of black soldiers – "In the first place I thought it best not to use negro troops if it was truly necessary for sustaining the government. I was for putting them there I am for anything that it is legal and right for sustaining the government as we once had it."

Question was on what instances – "I don't know that I rejoiced at their success. I never rejoiced much that I know of sir. It was about the time they commenced putting negroes in I cannot say that I rejoiced or felt pleasure since that time that was a matter that I was opposed to but as I said before I am for anything to sustain the government."

Witness – James T. Pierson, resident of Caseyville

Question was when did you see Paine in Caseyville – "Well sir I don't recollect the date, it was in 1864 along in the fall of the year"

Question was what property did you see taken – "I saw a good many cattle and horses coming to town but I don't know whose they were."

Question was what direction did the troops come from – "At the time I was living in Caseyville and they came to Caseyville from Morganfield."

Witness – Will S. Pierson, resident of Union County, occupation farmer

Question was are you acquainted with Paine – "I am personally acquainted with him, I first became acquainted with him I think on the 20<sup>th</sup> of August last year at Caseyville. Union County, Kentucky."

Question was did Union troops take property of yours – "I can only say that this morning I left home and some of my property was taken I found it in Caseyville I had three horses that were taken and a mule, I never got the mule, I came here afterwards and Genl. Paine said I should have that mule, unless it was branded then it should be paid for. He said they needed the mule, consequently I did not urge the matter, I have not got paid for the mule."

Question was did you get the horses back – “Yes sir, Genl. Paine and I was together and he told one of his orderlies, I suppose it was to go and get the horse and give it to me.”

Question was “did I (Paine) not return every Union man’s property that called on me” – “As far as I know you did I don’t think that any Union person called on Genl. Paine but that he complied with their requests.”

Witness – W. W. Pierson, resident of Caseyville

Question was whether he knew of property being taken by Union troops – “I was not there I was not at home all I could say is what I understand.”

Witness – Thomas H. Welch, resident of Union County, occupation farmer and physician

Question was whether any of your property was taken by Union forces – “On the 19<sup>th</sup> of August last there was four of my horses and a buggy, two sets of buggy harness, some bridles and saddles, three head of cattle, taken from my farm. I would state that I was not at home when it was done, did not see it – it was all over when I got there.”

Question was did you afterwards find your property – “The next day I went to Caseyville and found one of my horses there in the possession of Genl. Paine’s forces and one of my horses at Alloway’s Mill where a portion of the force was stationed. I got two head of my cattle at Caseyville the other one I could not find. The other horse I could not find. I found one of the horses at Caseyville the other one I could not find. I found one of the horses at Caseyville in Genl. Paine’s possession the other one at Alloway’s Mill in possession of Colonel Davidson one horse and a buggy and harness.”

Question was your property returned – “He gave me an order for the property – he gave me an orderly to assist me in getting it... I got a portion of it, the balance I could not find.”

Question was did you refuse vouchers for missing property – “I was told by General Paine when I returned to him and told him I could not find the whole of the property to make out my bill and it should be paid.”

Witness – William Gregg, resident of Union County, occupation farmer

Question was whether any property was seized by Union forces – “Yes sir, I had a horse taken and some cattle.”

Question was when was it taken – “I think about the 19<sup>th</sup> of August 1864.”

Question was how do you know they were Paine’s men – “They told one so that is the gentleman that took my horse.”

Question was the property returned – “The cattle has but the horse has not.”

Question was did you make an application for property taken – “I got onto the horse and went with the man he took me and the horses to his Captain first and then went to Genl. Paine and he told me he had no use for the horse, as I came on back I met some other soldiers coming along who took the horse. I told them that I had leave from Genl. Paine to take the horse back, they went on with the horse and got the saddle. The next day I went down to Caseyville and Genl. Paine told the clerk to write me an order for the horse. In the place of giving me an order to Colonel Davidson they gave me the order to Colonel Moore and they would not give me the horse on that account.”

Question was did you abandon efforts to recover the horse – “Yes sir, I had a bill made out and sent to Paducah but I never heard any more of it since.”

Witness – Caleb Tucker, resident of Union County, occupation farmer

Question was property taken from you by Union soldiers – Yes sir, I had six head of horses, two saddles, seven bridles and four blankets sir.”

Question was when was it taken – “On the 19<sup>th</sup> of August last year.”

Question was did you make known to Paine that your property was taken – “No sir, I have not.”

Question was have you made an application for compensation of taken property – “No sir, I did not make an application.”

Question was are you a loyal citizen – “I think so, if I know what loyalty is.”

Witness – Catherine Greathouse, resident of Uniontown

Question was any of your husband’s property taken by Union forces – I think it was the 27<sup>th</sup> of August the Union soldiers arrived in Uniontown I believe it was that day they came up to our house and demanded of me, Madam where are your horses. I asked the gentleman how do you know I had horses.”

Question was did they take the horses and how many – “Yes sir, they took three and came and got another.”

Question was did they do any other injury your property – “I cannot say that it was material injury – they destroyed my little sons melon patch.”

Question you were told it was Paine but did not actually see him – “Yes sir, I didn’t see General Paine it was his command that passed that day, General Hovey passed there the day before and Genl. Paine followed on this day.”

Question was how do you know it was Paine’s men – “I know that he arrested my son.”

Question was did you have your horses returned – “he (her husband) got them back from General Meredith.”

Question was “did you say to a gentleman at the time of the arrival of General Hovey with Union troops at Uniontown that he, the gentleman, must go at once and inform Adam Johnson who commanded the guerrillas near Morganfield that the Yankees were coming” – “No sir I did not, I will tell you what I said. I was standing and looking at the boats as they landed and there was some gentleman riding by the place and I said in mercy sake can’t you let Johnson know so that he can make an escape.”

Question was are you a southern sympathizer – “Well, I reckon I am.”

Question was have you ever rejoiced at the success of the Confederate army – “I have that very thing.”

Witness – Robert William Greathouse, resident of Uniontown, occupation farmer

Question was are you related to Col. Lucien Greathouse of the Union Army – “Yes sir, I am a half brother.”

Question was any of your father’s property taken by Union soldiers – “We had four horses taken on one day. I don’t recollect the day it was some time last fall I don’t recollect the month either exactly.”

Question was by whom were the horses taken – “General Paine’s son came down I was just done eating breakfast I was out looking around and I saw four men and a negro come galloping down. I stepped aside I thought they were going on down the road till they got right to the gate when they called me. This young man asked me where our horses were I told them they were out in the field he said I had to find them. I told him we wanted our horses and could not get along without them, he took hold of his pistol and told me if I did not tell him where they were he would shoot

me, them ma told me to tell him and I told him they got onto their horses and went over to the slough where I had tied the horses and took two.”

Question was who took the two horses – “This young man. And left one, the mare with a young colt this negro that was with him told him that I had another horse, he was out in another field – the oat field or stubble field where oats were cut he told me that I must find that horse I told him that the guerrillas had him that I went out to Morganfield the day before and the guerrillas took him, but they had not taken him. I told them that I didn’t want them to take this horse he said he would take me to town. I got onto one of the horses and they led it. They took me to Genl. Paine and told him, here is a fellow that has given the guerrillas a horse. I reckon he can give us these two. I sat down and commenced talking to Genl. Paine, I don’t recollect exactly the language he used. I commenced to talking to him and telling him about my father being out to the burial of my brother. Col. Lucien Greathouse who had just been killed, he told the men to put me out there with the other prisoners he had two more out there that he was going to shoot and when he said he had two more he was going to have shot and put me with them. I told him I would get the other horse, if he would let me out. I don’t recollect what he said, he called up two of his men and an officer and told him to take this man and if he didn’t get this other horse just to shoot this man and dig a hole and put him in it. I went on down and got the horse and brought him up.”

Question was where was your father when this happened – “He went to Vandalia, Ills. to the burial of my brother, Col. Lucien Greathouse when I told Genl. Paine about it I don’t know whether he listened or not, he looked pretty mad and cross, he said that he was going to clear the country of Guerrilla reports. I reckon that he had been told that I reported to the guerrillas the arrival of the troops but they knew it before I did.”

Question was when you stopped at Morganfield on the day the Union troops landed at Uniontown who did you talk with – “I stopped in the street – I don’t recollect exactly who I talked with. I believe Dan Hughes and Col. Johnson, George Johnson, he was a town keeper there.”

Question was did you see Adam Johnson’s men – “I saw his men sir. I don’t know any of his officers particularly I didn’t see Adam Johnson didn’t see him to know him. I have seen though.”

Question was did you speak to any of his men – “I spoke to some of his boys that I know they told me that the federal troops were in Uniontown.”

Question was “what time did Genl. Hovey arrive at Uniontown and did you know he was coming before he got there.” – “No sir, I don’t know what time he arrived I think about eleven o’clock. I didn’t know he was coming until I heard it out at Morganfield.”

Question was how did Johnson’s men know the Union troops landed at Uniontown – “They were there at Uniontown I suppose and then came on up to Morganfield.”

Question was did your mother send you to Morganfield to warn Johnson – “No sir.”

At three o’clock the court adjourned until tomorrow morning February 24<sup>th</sup> 1865 at 10 o’clock a.m.

February 24<sup>th</sup> 1865, 10 o’clock a.m. The court met pursuant to adjournment. The court proceeded with the examination of Robert William Greathouse.

Question did you not tell Johnson’s men that Union troops were coming – “No sir, they told me that they were coming.”

Question was did you report the presence of guerrillas to Genl. Hovey or myself (Paine) – “No sir, I thought General Hovey had gone out to Morganfield, I thought they knew the guerrillas was there, that is what I thought they came for. I did not report I did not know I ought to report. I would not report on either side.”

Question was is your mother loyal – “Well, I don’t believe she is.”

Question was “did you not know that it was reported to me (Paine) that you had been to Morganfield to give notice to Adam Johnson” – “Well I did not know it until Pa told me that General Paine told him that it was reported to him. Yes, I believe I did know that somebody told him that I reported on them to the guerrillas. I knew it before Pa came home.”

Question was did you conceal the presence of Johnson – “No sir.”

Witness - Henry Parsons, resident of Union County, occupation farmer

Question was whether any property was seized by Union troops from you – “I did not see any property whatever taken at all nor in possession of the federal forces.”

Question was whether you lost any property when Union forces passed through your neighborhood – “Well I had a couple of horses and a yoke of oxen and a buggy taken and a wagon and negro taken, also I had a cow to stay out the night before and the negro went after it and did not come back any more.”

Question was did you find any of your afterwards – “I made application to Col. Fombeller to see if he could get pay for it. My oxen I think were sold and I got the money for them... I got my wagon back and buggy, they were returned to me.”

Question did you ever speak with Genl. Paine of other military authorities respecting your property – “No sir, I never saw anybody in regard to it. I wrote to Col. Fombelle. I am sorry that I did not go to Genl. Paine. I think I would have recovered it all.”

Question was “do you know that I wrongfully authorized or suffered the troops under my command to seize your property or any other persons” – No sir, I don’t know anything about it.”

Witness – W. P. Tucker, recalled by the prosecution

Question was do you know of any property taken by Union forces – “Genl. Paine stopped at my house, I live on the road leading from Morganfield to Salem five miles from Morganfield.

William S. Buckner and Caleb Tucker live between my house and Morganfield. Genl. Paine was at my house on the 19<sup>th</sup> day of August 1864. I saw some horses of William S. Buckner that I recognized. I saw three horses of Caleb Tucker’s that I recognized; I saw two of Henry C.

Parson’s that I recognized; Dr. Thomas Welch lives some three miles below, I did not see any of his property.

Question was who was in possession of the property – “I saw Col. Davidson out in the big road about a hundred yards from my house and was introduced to him and he had command of that part of the men that was at my house that had this property that I recognized in their possession.”

Question was did Paine know that Davidson had possession of property – “I did not see Genl. Paine from the time he left my house till I come to Paducah. I have no recollection of it, since the time that he left my house on the 19<sup>th</sup> of August till I saw him here in Paducah.”

Question was had any of those mentioned having property taken make an application for return of property to Genl. Paine – “There was no person that I know made application to Genl. Paine that lived between my house and Morganfield except Henry C. Parsons he recovered his buggy and a yoke of cattle and those that live between my house and Caseyville, I could not state personally whatsoever they did or did not.”

Question was “there anything said about guerrillas capturing cattle from the steamboats” - “When Genl. Paine was out at my house that matter came up relative to the capture of these boats and the government property that was captured there, he said there in my house that he would not have been in the county if it had not been for the guerrillas and their taking government property.”

Question was what was said about the recently stolen government cattle being scattered about this and other counties nearby – “It was spoken of as to the cattle being scattered through the country; there was some spoken of as being driven to Morganfield, the number I don’t recollect as it was named.”

Question was “state fully the condition of that county and adjoining counties preceding my expedition there, as to the presence there of guerrillas, their depredations and the sympathy of the citizens for them” – “Genl. Paine was there as I stated the 19<sup>th</sup> of August 1864 and passed my house. In April same time in April, there was some fifteen or sixteen guerrillas came in there. They were the first that had been there for some time; they were I believe represented as being Bennett’s men, they increased from that slowly along for sometime then Col. Adam Johnson came in, it was represented with some forty or fifty men. He then took to conscripting and issued an order there for conscripting. He had his military headquarters near Morganfield. They were notified to report on a certain day; I don’t recollect what day that was previous to Genl. Paine’s being there. They were traveling through the country. Some days you would see quite a number and officers with them. The people of that country lost a good many horses by these parties that had come in along with Johnson and those that had joined Johnson after he came there – a great many horses. They lived off the people. They would go to the houses and require food for their horses and require their provisions to be cooked and it had to be done they lived off the people in that way there. There has been from the commencement of this rebellion a great deal of sympathy manifested in that county for the rebellion there is what is termed there a great many southern rights men there were not a great many union men in the county.”

Question was what was the effect of Paine’s expedition – “As a general thing there were a great many persons expressed themselves relative to his expedition at the manner in which he acted while in the county these expressions of dissatisfaction seemed mostly from southern sympathizers, I heard of no boats being captured after that – that I recollect of I heard of steamboats being fired in to but no government property that I recollect of now being captured by them after that time there have been citizens robbed since that I don’t recollect that any citizen has been murdered since that time.”

Question was did unconditional union men complain about Paine’s expedition – “As a general thing they did not there were some that complained very much that were union men.”

Witness – James Dickey Moss, resident of Paducah, occupation butchering business

Question was were ever put under arrest by Paine – “I cannot say that I was put in arrest by General Paine. Major Bartling put me under arrest.”

Question was did you pay any money to procure your release – “Yes sir, I paid one thousand dollars. I don’t know whether you consider it was to procure my release from arrest because when I was arrested he told me that he should fine me a thousand dollars. I told the Major at the time that I could not raise the money and he said you will have to pay it or go to the guardhouse and remain there until you do pay it. He said that I could get the money off some of my friends. I told him that I did not want to involve any of my friends, if I had no means of paying it. He

remarked that he could not help that – that I would have to go to the guardhouse until I did pay it.”

Question was how long did you remain in the guardhouse – “I remained there from twenty four to thirty six hours.”

Question was did you pay the money – “I paid it after the twenty four hours. I had six hundred dollars in money on deposit at Watts, Given and Co. and I sent word to Major Bartling that I would pay the money – six hundred dollars and give him a bond for the other four hundred at the end of the month. The first proposition was that I should pay him the six hundred dollars to get out of the guardhouse. He sent back word that I could not get out without paying the one thousand dollars. I gave him the check on Watts, Given and Co. for six hundred dollars. Afterwards I paid him the other four hundred dollars. I don’t think the month had quite expired.”

Question what was grounds for payment – “The grounds sir was just this. I was sent for by – I suppose his orderly – a man of the name of Brownfield at all events he notified me to appear at Major Bartling’s office saying that Major Bartling wished to see me. When I went there he called me into his room and called a negro man and says to this negro is this the man and says to this negro man is this the man that took you home. The negro man said yes. He then asked me if I had taken this negro boy to his master and I told him I had. He remarked then that he wanted to know if I was not ashamed of myself and said he did not think that of me – he said that it was for taking this negro man home – he said that I should pay one thousand dollars. Three hundred dollars of it goes to this man for his suffering, he said the master had whipped him that seven hundred dollars you shall pay to the government, or said he, I will retain seven hundred dollars till I see Genl. Paine and find whether your money shall be refunded to you or go to the government.”

Question was had you ever had an interview with Paine – “Never sir.”

Question was have you applied to have you money refunded – “No sir, I have not. All that I did was I sent to Genl. Meredith the four hundred dollars I paid a few days before Genl. Paine left.”

Question was when did you take the slave into custody – “Well I cannot tell, I think it was in January 1862, I arrested him about three miles from this place.”

Question was did you receive an award for his capture – “I received from him two hundred and seventy five dollars in Tennessee money which was at the time at a discount. There was more than one negro – there was three – it was for the delivery of the three negroes.”

Question was whether the master’s residence was under rebel control – “No sir, I left his house in the morning and went from his house to Paris which was three miles and there I found some of Colonel Lowe’s men and saw some of them passing through the country around there.”

Question was by whose authority did you arrest the slave – “Loving (slave owner) requested a young man who I was well acquainted with to arrest the negro and he came to me to get the negro arrested. I cannot say positively it was anybody’s authority only the authority was given to this young man and it was through his instructions that I arrested the negro. He had been here and got a part of his negroes and took them home; the others were out of the way and he did not get them.”

Question was did you “pass over country held by Confederated” – “I did not see any, nor was it considered at that time. I don’t think there was any Confederate forces. I didn’t hear of any at the time. I think they had been passing back and forth through the country.”

Question was when you took the slave did you report it to the authorities – “At the time, before I took the negro out, I went to Drake – I think it was Drake the Quarter Master here. I told him the circumstances of the negro being here and asked him if it would be right in me to take the negro.



He was busy at the time with some other gentleman and I spoke to him the second time and he appeared to be a little out of humor and said he did not care what the devil I did with him. I believe he remarked he wished they were all out of the way and I took it for granted it did not make any difference.”

Question was “are you a professed negro catcher” – “No sir, that is all the negroes I had ever anything to do with.”

Question was did the rebels hold Forts Henry and Donelson at the time – “At the time I took the negro there, it was possible I may be mistaken in the time, I cannot tell exactly the date, but at the time Colonel Lowe was at Fort Hindman (Heiman)”

Question was repeated to the witness – “They did not agreeably to my knowledge of the thing. I cannot tell how far Paris, Tennessee is from Fort Henry. I think it is something near twenty miles.”

Witness – L. L. Talbot, resident of Union County, occupation farmer

Question was whether Genl. Paine ordered property to be taken from you – “I cannot say that he ordered any property taken from me, there was property taken from me by the soldiers. I think it was some of his command.”

Question was what property was taken – “There was two horses I think sir, some five head of cattle, some hay, potatoes, etc.”

Question was did you ever have an interview with Paine regarding your property – “No sir, I never did, Col. Davidson camped on my premises and I could not leave to see Genl. Paine until he left.”

Question was did you ever make a claim against Paine – “Never sir.”

Question was under whose command was Davidson – “He said he was under the command of Genl. Paine.”

Question was Paine with the troops when they camped at your residence – “No sir, he came by us and went on to Caseyville. Davidson’s troops encamped near the mill.”

At half past two o’clock the court adjourned until tomorrow February the 25<sup>th</sup> 1865 at 10 o’clock a.m.

February 25<sup>th</sup> 1865, 10 o’clock a.m., the court met pursuant to adjournment.

Witness - T. H. Mayes, resident of Graves County, occupation farmer

Question was what transpired between you and Paine in regards to the sale of W. A. Bell’s store – “On Saturday if I recollect right Dr. Humble and myself bought Dr. Bell’s drug store. On Monday I bought Dr. Humble out. I had not been up to headquarters before this. Dr. Humble had been on Tuesday, I went up to see if I could get permission to buy some other goods. On Saturday he bought the goods and I went up individually to get permission to bring some more goods here from the country. While there (Mr. Anderson went up and introduced me) – I stated to the Genl. that I wanted permission to bring some goods down here – he then remarked that I must pay two thousand dollars into the Provost Marshal’s office of the purchase money before I did that. I sold to Mr. Weit, if there was any money paid into the Provost Marshal’s Office he did it – he took my contract. I paid Dr. Bell three thousand dollars of the purchase money and then Mr. Weit bought me out and was to fill my portion of the contract.”

Question was did Paine send by you a message to Dr. Bell about the proceeds of the sale – “I think if I’m not mistaken Genl. Paine told me to say to Dr. Bell that I must pay two thousand dollars to the Provost Marshal and if he was not willing for me to pay the two thousand dollars into the Provost Marshal’s office why all right there would be some other arrangement made.”

Question was “there any sum named in that conversation to be paid” – “My recollections is that at first when Genl. Paine talked about it he said three thousand dollars and a half a minute he said two thousand dollars was the amount that was to be paid into the office.”

Question was why were you directed to pay two thousand dollars – “Indeed I do not know as I could say why. I was directed to pay it there, I cannot state, I don’t know as there was any particular reason if there was I have forgotten.”

Question was there anything said in regards to assessments – “I think there was something said about assessments but the particulars I cannot recollect to save my life – my recollection is very poor I know something was said about it.”

Witness – Lewis T. Bradley, resident of Meigs County, Ohio, occupation engineer – Captain of the steamship Convoy.

Question was “state whether the steamer Convoy conveyed any cotton for J. T. Bolinger or others and if so when the cotton was conveyed, how much, where from and where to” – “I disremember the date, there was about eight four bales of cotton, twenty six hogsheads of tobacco taken from Hickman, Kentucky to Cairo, Illinois.”

Question was whether it was under the employment of the government at the time – “Yes sir.”

Question was were there government soldiers employed in loading the cotton and tobacco – “There was sir, there was soldiers help load it. I don’t know in what way they were employed.”

Question was how many were employed – “I think it was about fifty.”

Question was did this vessel “convey any government stores or freight” – “None that I know of.”

Question was the order to ship from Hickman to Cairo – “She was sent according to the orders to convey the cotton and tobacco to Paducah, subject to the order of the commander of the district of West Kentucky.”

Question was whether it was delivered to Paducah – “No sir she did not bring it to Paducah.”

Question was why not – “Mr. Bolinger received a telegraphic order to put it off at Cairo.”

Question was where had the soldiers been employed to work from Hickman to Cairo – “No sir, they went from Columbus to Hickman.”

Question was where were you when you received the orders – “I received them at Columbus, Ky.”

Question was do you have the written orders – “Yes sir”

The orders are as follows:

Special Order No. 5

Captain T. C. Buntin A.Q.M. will order the steamer Convoy to proceed to Hickman, Ky. and there take on about seventy five bales of cotton and twenty five hogshead of tobacco and return. The tobacco and cotton to be taken to Paducah and stored subject to the orders of the General Commanding Dist. of West Kentucky.

By order of Col. Jas. N. McArthur

A.Q.M. Office Columbus, Ky.

August 21, 1864

Question was who commanded the soldiers – “I do not know, the officers from the United States Heavy Artillery.”

Question was when was the shipment transported – “It was transported in the night following the date of the order mentioned.”

Question was what was the route of the Convoy at the time – “The route was from Paducah to Columbus and her time of laying over after the trip was at Columbus.”

Question was “did the boat keep up her regular trips notwithstanding this trip to Hickman” – “Yes sir she did”

Witness – J. T. Bolinger, residing in Paducah but full time resident of Mayfield, occupation merchant

Question was whether the steamer Convoy was used by you or other to convey cotton and tobacco – “Yes, the steamer Convoy conveyed for me from Hickman in August last 1864 eighty four bales of cotton and twenty seven hogsheads of tobacco – it was delivered to Cairo, Illinois.”

Question was how did the vessel come to convey your property – “I with some gentlemen had cotton and tobacco at Mills Point, or Hickman, it required an order from the General Commanding this district to permit any boat to land at Hickman there was an order forbidding any boats to land at Hickman. I went to the general about the time I got this stuff and asked him would he give me a permit to take it away from there he said it will depend on a good many circumstances that was about the words he used at the time. I went to see him afterwards about it and told him I had the cotton and tobacco there and asked him if he would give me permission to bring it away, well says he if you can bring me evidence that it was bought from loyal men you can. I told him that I did not have that evidence that that cotton was bought for me by Judge Bigger a few days after and told him what it required before I could get it away from there – he went off and got the certificate from the parties certifying that they were loyal. I went down to Cairo to know if I could make any arrangement to ship the stuff. I met Captain Bradley and asked him about the Convoy if he was carrying private freight he said he was the Convoy had ... to Hickman on a trip similar before General Paine came to the district and he told me of it I could get permission from General Paine to let him land they would go down and bring stuff up – the stuff was detained there about twenty days finally Genl. Paine went up the river to Uniontown while he was there I received a telegram that the cotton was burned that the guerrillas had gone in and burned it the next day I received a telegram or letter that it was not burned but that unless I got it away instantly it would be burned. I waited here a day or two for General Paine to return and he did not come and I got the second telegram about it, I then went General Paine’s headquarters and found him and his staff all absent but Lieutenant Johnson I told him all the circumstances how long the stuff had been there and the necessity of removing it immediately and that I was fearful it had been found out that it belonged to me. I tried to keep from being known I told him I had a license – I don’t know but I showed it to him it was from the treasury department giving me permission to but cotton and if there was anything wrong in the transaction when General Paine came back why it would only be at Cairo outside the hands of the rebels and he gave me written permission to bring it away and also permission for the Convoy to go and bring it for me as I started down to the river to go on the boat. I met Genl. Paine and staff coming up and as Genl. Paine had refused two or three times to give me permission to bring it away I thought it would be well to show him the documents that Lieutenant Johnson had given me and what he had done he looked it over and said you shall not take it to Cairo but you shall bring it here to Paducah and he scratched out Cairo and interlined it with Paducah. I left immediately then and went to Cairo I thought about it as I went down the river that it would cost me some seven or eight hundred dollars additional freight I went to

General Meredith's headquarters at Cairo and said to him that I did not know what difference it would make, the Genl. advised me to telegraph to Genl. Paine. I did telegraph to Genl. Paine that it would cost me seven or eight hundred dollars more to bring it here and if an investigation it would go to the government it would cost that much more and that it would be a great accommodation to me to leave it at Cairo. I went down to Columbus and to Hickman when I got back to Cairo I got a telegram from Genl. Paine saying you may leave your stuff at Cairo subject to my order."

Question was did Paine give you authority to ship property on the Convoy – "I think he did sir – that is my recollection that he gave me permission or that was the paper Lieut. Johnson gave me permission for the Steamer Convoy to go to Hickman to bring the cotton and tobacco."

Question was did any soldier accompany you and under whose orders – "United States soldiers went with us from Columbus to Hickman, Colonel McArthur I believe gave the order from Columbus I do not know whether there was any order from Genl. Paine for them to go or not there was no gunboat they did not suffer any boat to land at that point unless there was soldiers or a gunboat along."

Question was did the soldiers assist loading cargo – "The soldiers – some of them helped to load it but they got off at Columbus it was unloaded at Cairo."

Question was who ordered the soldiers to load – "I don't know sir whether anybody did so or not I was sick and Judge Bigger had charge of the loading – in talking to him about it he told me he treated some of the soldiers and got some of them to help load, they was not all on guard and them that was not on guard he treated and got them to help load it on."

Question was did you pay freight expenses – "Yes sir I paid freight, the regular charges I paid two hundred and fifty two dollars on the cotton and one hundred and thirty dollars on the tobacco making it three hundred and eighty two dollars."

Question was did the Convoy carry private freight and passengers – "Captain Bradley and Captain Buntin both told me that they wanted all the freight and passengers they could get in order to keep up the expenses of the boat, about the time they took this trip they was fixing the cabin and they wanted the money to buy furniture bedding, etc. for the boat. I afterwards gave the Convoy a good deal of freight."

Question was are you an "unyielding Union man" – "I am now and always have been. I was the first Union man in Kentucky that was arrested and robbed. I am an unconditional Union man I never stumbled over any of the President's orders or any of the President's proclamations – the rebels have robbed me of over thirty thousand dollars worth of stuff and today I cannot go outside the pickets."

Witness – Loussaint C. Buntin, resident of Terre Haute, Indiana, occupation Quarter Master of the District of West Kentucky at Columbus.

Question was who owns the steamer Convoy – "Well sir she is owned by the government of the United States."

Question was did the government receive compensation for the freight and transportation of cargo – "I don't know the boat generally rendered her earnings to my office and received credit for it. I could not state any particular articles."

Question was did "private freight carried in that boat accounted for to your office" – "Yes sir and the freight money was turned over to the quarter master's department."

Witness – M. G. Milam, resident of Paducah, occupation druggist

Question was did Paine place you under arrest – “Yes sir he arrested me. It was about if I mistake not the 25<sup>th</sup> of July 1864

Question was how long did you serve in military prison – “I was in it fifty one days if my recollection serves me right and I think I recollect pretty well.”

Question was what was your health like during your imprisonment – “My health during a portion of the time was very bad.”

Question was how was your treatment in prison – “Well there was a portion of the time I was in there I considered I was treated pretty tolerable badly they made me work at the most filthy work that could be found about the prison. A portion of the time, I was not treated particularly bad. I didn’t have much to say to anybody nor anybody much to say to me.”

Question was were brought to trial for your offences – “I was not.”

Question was were there any charges brought against you – “I never heard of any. I am ignorant at the present time of what I was arrested for.”

Question was were in the rebel army – “I was in the rebel army in 1861. About the 20<sup>th</sup> or 22<sup>nd</sup> of May I left in 1862, the 9<sup>th</sup> day of July.”

Question was where were you arrested – “I was in Mr. Soule’s Drug Store engaged as a druggist and prescriptionist.”

Question was “did you swear before Genl. S. S. Fry’s commission that you had erysipelas in the prison and that I refused to let you go out to get medicine” – “I swore this, I swore that I had the erysipelas while in prison. I didn’t know anything about Genl. Paine I never saw Genl. Paine while I was there this is about the best I remember. I had the erysipelas and was in quite bad health at one time I got permission to go out and get medicine to doctor myself. I applied two or three times after that and the granted reported to me that I was not allowed to go out. Where the order came from I do not know whose order they were acting under I don’t know. I swore that I was refused to go out and get medicine or medical treatment. I was permitted to go out one time with the guard and get medicine after that I was refused permission anymore who by I cannot say.”

Question was where did you surrender yourself – “I came back and surrendered myself at Huntingdon, Tennessee I have go the papers in my pocket now.”

“The witness stated in explanation I left the rebel army at Tupelo, Mississippi on the 9<sup>th</sup> of July 1862. My health was somewhat bad after I left – there I was making my way back I did not get into the federal lines till the 22<sup>nd</sup> of August 1862 the first federal forces that I met was at Huntingdon, Tennessee.”

Question was were you a volunteer in the rebel service – “I was a volunteer I volunteered about the time and at a place where if a man living where I was he could hardly keep out of it.”

Question was what were you before you volunteered – “I was a practicing physician in Weakley County, Tennessee ten miles from Union City.”

Question was are you a loyal citizen – “I am.”

Question was do you sincerely desire the success of the Union army – “I sincerely desire it.”

Question was “...did you not go beyond and outside your duty to oppress and abuse Union men” – “I did not.”

Question was “have you uniformly acted with Union men in the great struggle now going on since you come to this post” – “I have not uniformly, as I told you a while ago I was in the rebel army I uniformly acted in accordance with union men and this authority and obeyed all commands and all orders given to me.” Witnessed was asked again – “I have as far as I have had anything to do with any person outside I have had but little to do with any person outside when

they have come to me for objects of charity for men that have come here wounded or in need I have uniformly given them. I felt myself a machine to be worked by the military men whatever military men required me to do, I've done."

Witness – Mary Crutchfield, resident of Paducah

Question was do you anything in regards to property taken from J. S. Ford by Union troops – “I think it was the first day of July I come to live in his place he was not there. Mr. Hicks was living on his place it was a while after I lived there – there were some things taken. I don't know very much about the things that were taken.”

She continued – “I never took any particular notice of the things that went off on the drag – some curtains and some bed clothes is all that was taken from is home.”

Question was who took the items – “I was not acquainted with the persons they were soldiers.”

Witness – E. R. Jett, resident of McCracken County, occupation trader

Question was do you know of property taken from J. C. Brooks of Ballard County by Union soldiers – “There were two mules taken from him I think last summer – now I didn't see them taken out of the lot they were brought out of the field into the lot I was guiding the scout and in front.”

Question was “what scout” – “I was part of the 7<sup>th</sup> Kentucky State Guards.”

Question was do you know whose orders the soldiers were following – “No sir I do not.”

Question was do know if John A. Bracken is an unconditional Union man – “I know him – I have known him for the last six or seven years. I think not sir, I know that he is not a union man and never has been since the war commenced.”

Witness – Frederick T. Whitworth, resident of Paducah, occupation farmer

Question was whether you knew of property taken from J. C. Brooks by Union soldiers – “I could not say exactly what time it was I went out on a little scout when Jett was along when a couple of mules were taken.”

Question was what was taken – “I saw one of them taken away I saw a soldier riding one the other was fetched on town.”

Question was what troops – “They were some of the 3<sup>rd</sup> Illinois Cavalry. Some of Major Paine's Battalion, Captain Gregory's Company.”

Question was did I (Paine) authorize the taking of the mules – “I don't know sir I was only a private in the ranks.”

Question was is John A. Bracken a unconditional union man – “I know him sir I never took him to be such sir I never took him to be anytime I may not be a judge though.”

At three o'clock p.m. the court adjourned until Monday, February 27<sup>th</sup> 1865 at ten o'clock a.m.

Paducah, Ky.

February 27<sup>th</sup> 1865

10 o'clock a.m.

The court met pursuant to adjournment.

Witness – Phelps Paine, resident of Monmouth, Warren County, Illinois, occupation farmer

Question was were you in the military service – “Yes sir, I was in the military service of the United States as Captain and Assistant Adjutant General of volunteers.”

Question was did Genl. Paine issue an order to take property from J. S. Ford – “No sir he never issued an order to take Mr. Ford’s property to me. I went to him and told him I wanted some furniture for my office – he told me to go to the Provost Marshal that he had furniture that was left by persons that was banished to Canada...Major Bartling sent over to my office I think the next day two mosquito bars, two bed quilts, I think a cover lid and two window curtains – where he got them of or where they came from I don’t know – when I was relieved from duty I left the articles in my room. General Meredith took possession of my room and they were all left there. I don’t know whether they were all left there – I don’t know whether they were all Mr. Ford’s goods or where they were from.”

Witness – Peter Davidson, resident of Peoria, Illinois, occupation lawyer

Question was were you in the expedition to Union County under Paine – “Yes sir”

Question was what were the verbal orders you were given in respect to the seizure of property – “He (Paine) told me to seize the property of rebels – all cattle, all serviceable horses and mules, all belonging to rebels and bring them in.”

Question was did he (Paine) give you instructions in regard to loyalty – “I don’t think he gave me any instructions as to how to determine the loyalty of citizens.”

Question was were you commanding a regiment – “I was commanding a detachment consisting of parts of three or four regiments, what Genl. Paine called a brigade – a detachment properly.”

Question was did seize property from Alloway – “I don’t – whether we did or not I don’t know but we did – I know we had some talk about it – he was willing we should take his property if we paid for it – I don’t think we did.”

Question was whether you took property from a Mrs. Fischer – “I cannot call her by name, I can say we took a considerable amount of property on that trip but the names of parties I cannot remember now.”

Several other names were mentioned but Davidson recalled only a few but could not recall what property was actually taken.

Question was did you take any oxen – Yes sir we took a good many cattle – we took these buggies for the purpose of taking sick men along in place of ambulances.”

Question was why were you ordered to seize horses mules and cattle – “In regard to the horses I understood that we were to take such as would be serviceable for cavalry, for cavalry use. In cases where we took fat cattle the reason was I think we had lost some and that this was done as a matter of reprisal and also to punish rebels and rebel sympathizers for harboring guerrillas.”

Question was what officer was in charge of seized property – “The property as it was seized was kept in the command, was really kept by myself and officer of the day, there was an officer detailed to attend to the stock, he turned it over every successive day. When we brought it into Smithland there was an officer detailed to determine the right of property if there was any claimant who claimed to be a Union man, he was to adjudicate upon it. He came to see me and stated that I was familiar with the circumstances of the taking of the property and he knew nothing about it and he desired me to do it and I did. There was considerable amount of property turned over to parties who claimed to be Union men and established the fact but those who did not establish the fact did not receive any. All however who did establish their Union statements did receive property.”

Question was what was the loyalty of the people and whether guerrillas were assisted and encouraged by residents - "In regards to the first part, the loyalty of the citizens, I think I did learn, I learned that a portion of the country we traveled through they were almost all rebel sympathizers - in a portion of it a large share were Union people as we approached Smithland they were mostly Union people but through the best portion of the country they were rebels. In regard to rebel sympathizers harboring guerrillas my information is that the rebels sympathizers did harbor and countenance guerrillas and made it unsafe for Union people to live in their midst. I will say that I had two or three parties as guides, one in particular who I depended on who I found to be well acquainted with the country and the people generally."

Question was how many government cattle had been stolen - "Well sir I have forgotten - it was reported it is only wild that I could answer now I could not tell it runs in my mind eighty and also two hundred I will say simply that there was a large number of cattle and it was reported that they were in excellent condition - it was considered quite a large prize by rebel sympathizers in the country where they passed. I think sir it was about two hundred head of cattle if I remember right."

Question was how long did you remain in the county after the expedition - "We did not remain there at all the very day we arrived at Smithland we came down to this place. I think the very same night we went on down to Cairo that is the part of my old regiment I had out."

Witness - J. C. Brooks, resident of Ballard County, occupation farmer

Question was what property was taken from you by Union troops - "It was taken off my farm the mules, clothing and such things - there were some mules taken from my farm I think in the latter part of July last year."

Question was who were they taken by - "Some troops but I don't know who the commander was. I know two of the gentlemen - Mr. Jett led the party to my house - Ed Jett sir."

Question was were they Union troops that took your property - "They said they were Union troops sent there by Genl. Paine that is what they said."

Question was did you ever make an application to Genl. Paine to have the property restored - "No sir, I done it since Genl. Paine left."

Question was when did you see Paine - "It was some two or three weeks afterwards I don't recollect the time."

Question was did you tell him of "depredations committed on your property" - "Mr. Shelby told him I did not. Mr. Shelby merely asked him if he knew what was done I don't know whether he knew they were at my house in the raid they made and he said he did. He said that he had some of them in the fort for it."

Question was were you present at the time Paine spoke to Shelby - "Yes sir."

Question was "did I (Paine) not say in the conversation referred to that if the soldiers did not stop taking goods from citizens that I would shoot some of them that if they behaved like guerrillas that I would punish them as I did guerrillas" - "I don't recollect of anything more said about it more than just what I said."

"The Judge Advocate stated to the court that he had no other witnesses in attendance today, that he had found much difficulty in procuring the attendance of witnesses on account of the temporary absence of some from their homes and the removal of others from their late residences; that he hoped to have witnesses in attendance tomorrow and proceed with the case. The court suggested that to save time the accused might enter upon his defense and then the



witnesses for the prosecution might be examined as they arrive. The accused consented to this arrangement and thereupon entered upon his defense.”

Orders that were issued to Paine were submitted to the court - see above for those orders. Those not listed were:

U.S. Military Telegraph

Paducah Aug. 16, 1864

By telegraph from Lexington, Ky. Aug. 16, 1864

To Brig. Genl. E. A. Paine,

Leaving a sufficient garrison at Paducah move with fifteen hundred men at once against the rebel force at Uniontown either by river or by land as you deem best. A mounted force is moving up from Hopkinsville and another from Elizabethtown these troops are under Genl. Hobson.

Communicate by telegraph with Genl. Ewing at Louisville for information concerning Hobson's movements. Genl. James Hughes Indiana Militia also has a cooperating force at Evansville.

Answer.

By order of Brevet Maj. Genl. Burbridge

Witness – Henry W. Barry, Colonel 8<sup>th</sup> United States Colored Artillery (Heavy) stationed at Paducah

Question was how long have you been stationed at Paducah – “I have been here since the 28<sup>th</sup> of last April.”

Question was “state the condition of the military affairs at this post when I (Paine) assumed command” – “The condition of the post at the time General Paine assumed command according to my opinions was a very dilapidated condition I was in arrest at the time the General arrived here and the military that is the military was doing the duty seemed to be at loggerheads with the commander of the post and his policy, their ideas were that were doing the duty, that they were being imposed upon by the citizens without being protected by the commander who was commanding here. The point I would like to answer is I was raising a colored regiment here and the fact of my organizing that kind of a regiment was very hostile to the wishes and the feeling here where the regiment was being raised and the people to get that sympathy from him which we expected we should derive from him whom we ought to derive our sympathy and protection from and out of this grew the difficulties. The picket line was being attacked about every night by guerrillas and the country about was swarming with them and it was unsafe to go beyond the picket lines. One night after General Paine took command; the picket line was attacked and I think once the night probably following. In a very few days after he assumed command peace and harmony reigned here and it was perfectly safe for us to go to the state line without being molested. The General did that with very little assistance of cavalry, taking my regiment and mounting one company. I heard no one complain of General Paine or his policy that claimed to be loyal and I am a citizen of Kentucky and have been for some time and know the people very well. I would also like to state that the time the General came I had but very few recruits, about four weeks after that I had some eleven hundred men done through the influence of his policy.”

Question was how many troops were at Paducah prior to Paine taking command – “I do not recollect, I think there was but very few troops besides those furnished by my regiment colored, the exact number I could not state that there's but very few troops I should judge some fifteen hundred.”

Question was what was the police force like prior to Paine taking command – “The condition so far as police was concerned was very unsafe my Lieut. Colonel had been fired at a number of times. The General detailed a company of my regiment and used them as Provost Guard and shortly after using them as such everything seemed to be very peaceable and quiet, they seemed to give entire satisfaction, even to the most disloyal.”

Question was when were you placed in command of the post – “I was placed in command of this post by General Paine the 11<sup>th</sup> day of August and continued in command of the post for two months I think.”

At three o'clock p.m. the court adjourned until February 28<sup>th</sup> 1865 at 10 o'clock a.m.

Paducah, Ky.

February 28, 1865

10 o'clock a.m.

The court met pursuant to adjournment.

Barry added to his testimony:

“I have recruited since I arrived here the 28<sup>th</sup> day of last April thirteen hundred men done through the influence of General Paine's policy, which gave protection to both officers and soldiers of the Colored Regiments, such as is granted to them by existing laws and regulations. And that I believe with experience that his policy is necessary to the successful enlistment of colored soldiers in every slave state.”

Paine also submitted the following order:

Headquarters U. S. Forces

Paducah, Ky.

Nov. 16, 1861

Brig. Genl. E. A. Paine

Comdg. 1<sup>st</sup> Brigade

Sir,

You will proceed with two regiments of your brigade leaving a sufficient guard for each camp with a section of artillery and a company of cavalry to Lovelaceville to night by easy marches and take possession of the grist mill run by John Bracken for the use of the rebel forces without burning or destroying the mill. You will render it useless. Bring back all the flour or grain in the mill. You will arrest and bring back all of the persons named in the paper presented by you today, as aides and abettors of the rebellion. Take cooked rations for three days and a sufficient number of wagons to accomplish the object intended march the men carefully halting every hour for a short time as a rule and permit no straggling. Return immediately after accomplishing the object of the expedition and do not permit yourself to draw into an action beyond the immediate scene of operations, except in self defense.

By order of Brig. Genl. C. F. Smith

Witness – G. L. Tombelle, resident of Morganfield, Union County, occupation lawyer

Question was what position did you hold in the military – “I have been colonel of the militia of Union County for the last two years or so.”

Question was “were you employed by different parties whose property was seized by troops under my (Paine) command in August last” – “I was with all – scarcely any exception in Union County and the adjoining counties, Crittenden and Callaway and even in this county; but the principal portion of my business was in the upper counties.”

Question was what were the nature of those claims – “These claims originated from property having been taken by soldiers under Genl. Paine’s command whilst on an expedition up through that country. That country before that had been entirely in possession of the guerrillas for a long time and it had gone to that extent that they eventually blockaded the Ohio River and captured several boats, five or seven, I think. The Federal government had borne it so long that an expedition was organized under Genl. Hovey and Genl. Paine. At that time Adam Johnson was up there and a great deal of property was taken from the rebels and some from Union men, they didn’t know friends from foes. That is they didn’t know the people. Men came to reclaim their property and when Genl. Paine saw that they were loyal, I never saw him in a single instance refuse to deliver up the property or indemnify them. Perhaps these is not a greater rebel county in the state that Union County, notwithstanding its name. When the forces went up through there they took it for granted that they were all rebels and these were precious few Union men, though since the raid, as they call it up in that country, a great many of them claim to be Union men. Before that guerrillas were harbored and fed by the people there and would camp for months in the same locality.”

Tombelle details those filed claims against Paine as either loyal or not – “Yes sir I know them all some I know more intimately than others I know. J. W. Hammock, he is an inveterate rebel – he is more lenient now than at the breaking out of the war, he is a rebel yet and regarded so, he shot at a Union man because he was a Union man and said that all loyal men ought to be shot and killed – he shot from the street through the open door into the house. Allen Omer I am less intimately acquainted with he lives down above Caseyville – his reputation is not that of a Union man. William Gregg I am less acquainted with than any of the others. I know him when I see him. I only know from circumstances if I am not mistaken, when his claim came up he was proven to be a loyal man. Caleb Tucker I think his reputation is that of a rebel, he has never been classed among the Union men of that country. I know that guerrillas have harbored about his house. I know on one occasion of the Federals going to his house disguised as guerrillas and they were well received. L. L. Talbot has said but little to me on the state of the country – his reputation is that of a rebel. Henry Parsons is classed with the rebels – he is a quiet man – he lost his claim on that account – he let them get some of his property.”

Question was how many cattle were taken from government boats – “It is so long ago that my recollection is not distinct it amounted to a few hundred. I think some place it at four hundred. I know that some time afterwards that some Union men in that country were engaged in collecting them up and they even got some of them on the other side of the river Ohio. I think perhaps they got some over a hundred there.”

Question was “would you believe them (those mentioned above) under oath where a Federal Officer was on trial – “Well I think their testimony would be very much colored to his prejudice with all rebels such as we have up in that country.”

Question was what was the effect of the expedition – “It had the most salutary effect of anything that ever occurred in the State of Kentucky it produced a perfect quietus in that country – the rebels put themselves about it to keep guerrillas out they knew if a Union man was robbed they would have to pay the penalty and it was said by the rebels up through that country we do not need Genl. Paine up there anymore we have fixed it with the Guerrillas I suppose it would be the

universal testimony of all the Union men in the country. And up to that time notwithstanding if they would meet a Union man, particularly if he was a northern man, notwithstanding they were harboring guerrillas and feeding them and they were camped on their places sometimes for weeks in succession why they would pretend they did not want them there. I have never seen a straight out Union man that had any objection to his administration and they would like to have him reinstated and the same policy adopted, as they say that is the only thing that has ever done any good – the only thing that has ever brought the rebels to grief.”

Question was “did I (Paine) ever refuse to return any Union man’s property” – “I never saw a man more ready to deliver up property when he was fully convinced of a man’s loyalty. He was afraid of imposition and he knew there were some who would try to palm themselves off as Union men who were inveterate rebels. When fully convinced of their loyalty he was very ready to restore their property.”

Question was what is the state of Union County at present – “It is not good by any means – it is so far from being perfectly safe it is extremely dangerous for a Union man to travel through the country. It has been getting worse for months I don’t know that it’s getting worse now - there are some Union men who were born and raised there and who can palliate matters a little by being a little rebel when the rebels are around and Union when the Union men are around. They can travel with safety for instance I cannot travel. I dare not go outside the pickets.”

Witness – Henry Bartling, resident of Paducah, no occupation at the time

Question was were you in the military service – “I was sir as Post and District Provost Marshal in Paducah, Ky.”

Question was did you arrest James Moss by order of Paine – “No sir, I arrested him myself.”

Question was whether he was required to pay to procure release from prison – “He paid over to me sir the sum of one thousand dollars by order of Genl. Paine, I cannot say sir that it was done in order to procure his release.”

Question was why was he required to pay – “A negro man came to me and told me that he had been hired by Moss to go outside the picket lines and chop wood at one dollar a day – he accepted the offer and went outside of the lines and met Moss and in his own language ousted of having a whetrock and axe put into his hands he was handcuffed and pistol placed one at his head and another at his breast and thus guarded, he was returned to his master I think in Tennessee. His story was that he was sent then into the Confederate army in some capacity by his master and made his escape from there and returned within our lines and came to Paducah – he came to me and made this statement I ordered him to return the next morning and at the same time I sent for Mr. Moss to come to the office. He repeated his story in the presence of Mr. Moss and I asked Mr. Moss what he had to say about the matter – he acknowledged that it was all true and that it was the dirtiest piece of business he ever was engaged in that he felt truly sorry for it. I made a report of the matter to Genl. Paine and told Genl. Paine what I thought ought to be done with the man and what my decision had been while holding the man under arrest. This colored man represented that he had been in the army and I think furnished the proof of it but not before being arrested. I told Genl. Paine that my decision was that he should pay over the sum of one thousand dollars to the relief fund that was then established. Three hundred dollars of it to be returned to the negro. I had asked Mr. Moss what amount of money he got for returning the negro to his mater and he told me two hundred and seventy five dollars. He paid over the sum of one thousand dollars to me sir, giving me six hundred dollars in cash at the time and a note for four hundred dollars payable at a certain house in town. I presented the note some three or four

weeks afterwards and it was cashed. The amount was given to me and I paid three hundred dollars to the negro and the seven hundred dollars stood against me on the cash account of the relief fund. Genl. Paine was absent the first day I sent for Mr. Moss and returned I think the next day. I told him what I had done – what my decision of the case had been. He approved it by saying that he could not have done better himself.”

Question was whether W. A. Bell was required to pay any amount of money to you – “On or about the fifth day of August 1864 Dr. Bell paid over to me the sum of two hundred dollars by order of Genl. Paine.”

Question was for what account – “Genl. Paine sent for me to go to his headquarters and told me that Dr. Bell had made an application to sell out his stock of goods and that as he was an exceedingly disloyal man he had given him permission to sell his stock of drugs, etc. provided he paid over to me the sum of two thousand dollars to be put into the relief fund. Dr. Bell paid me that sum sir and it was entered into the books.”

Question was there an order to take property belonging to Scott Ford – “I don’t know that Genl. Paine ever issued such an order sir, Captain Phelps Paine issued an order to me to furnish him two mosquito bars, two bed comforts and I think two sheets. A man that I had to attend to out door business for me told me that these articles were to be had at a certain house designated as owned by a man named Scott Ford not occupied by him - after that I saw Mr. Ford and told him that this property had been taken or was about being taken for use of headquarters. I cannot say which – he said all right he was very willing to have Genl. Paine or his staff make use of them provided they were returned to him when Genl. Paine got through with them.”

Question was whether the property was returned – “Scott Ford told me himself that everything was returned but one counterpane.”

Question was what was the relief fund – “The relief of the wives and widows of soldiers with their children.”

Question was why Bell was required to pay two thousand dollars – “I presume he had been reported to Genl. Paine as being disloyal.”

Question was do you know that any assessments were made on rebel sympathizers – “Not any further than my books show - for that requires some explanation I presume there was an order issued by Genl. Paine to certain parties perhaps two or three gentlemen were appointed to levy assessments to reimburse Union men for losses sustained – these assessments were never collected to the best of knowledge all that were ever levied and collected came through my office and I have a copy of every entry.”

Question was how long have you been at Paducah – “I first came here with my regiment in November 1861. I entered the service in July 1861 and came here in November of the same year. I acted for four or five months as post adjutant under Colonel Cyrus Noble and Colonel Henry Dougherty of Illinois and afterwards as post and district Provost Marshal under Genl. Paine.”

Question was “do you know the Robert O. Woolfolk, Dr. Alexander, G. F. Rabb, Caldwell of the firm Latham & Caldwell and Dr. M. G. Milam” and their loyalties – “Robert O. Woolfolk I know I have only one class of associates that is among the union men – among the union men of this place he is looked upon as being exceedingly disloyal. Dr. Alexander does not stand very high for loyalty among some classes allow me to say that he is not looked upon as a very bad rebel. G. F. Rabb I would class as not being very much burdened with loyalty to the government. W. P. Caldwell of the firm of Latham & Caldwell among the union men of this community is regarded as being disloyal he is a low grade of a rebel or a high grade of copperhead which ever

you wish to make it. Dr. M. G. Milam is a scoundrel of the deepest dye when I say that I mean that he is a rebel of the deepest dye that is he is so regarded by the union men of this place.”

Question was would you believe them under oath – “...I would not believe any of these men under oath where a federal officer was on trial.”

Question was what was the condition of the post prior to Paine’s arrival – “Well sir, things were in a deplorable condition when Genl. Paine came here pickets were constantly fired upon and a union man dare not show his face outside the picket lines without an escort. Genl. Paine instituted a new policy that of giving protection to the union element of this country by driving the rebels, and guerrillas particularly, out of the country a short time after Genl. Paine assumed command here it was considered safe for a man to ride from here to the Tennessee line previous to that time sir he could not ride three miles with safety.”

Question was what were the effects of Paine’s administration – “Union men were happy and jubilant and the rebels exceedingly discouraged. Union men, women and children had protection in their lives and property. I speak now sir of this entire country almost the entire fourteen counties of this district. I have been for eighteen months president of the Union League here and the true union element here has gathered together in that place and there we have exchanged our views and had an understanding of the condition of the country back here better than could be obtained in any other way. Union men those that were known to union men in this country and so regarded received every protection whilst the rebels and sympathizers thought their time had come.”

Question was do believe Rabb’s testimony – “I think his dislike to General Paine and his administration is too strong and too bitter that there is a determination on the part of this class of men to crush out the union men of this district and that is another reason why I would not believe him.”

Witness – Elijah Rudolph, resident of McCracken County, occupation farmer

Question was what are you acquainted with William L. Mayes and what is his reputation – “I am sir – his reputation is bad sir.”

Question was would you believe William L. Mayes under oath – “I would not sir”

Question was how long have you known Mayes – “I have known him for ten years – they lived nearer than that part of the time – he lived within a mile of me when he first came to the country.”

Witness – W. M. Starks, resident of Calloway County, occupation farmer

Question was whether there were assessments ordered by military district – “I will state as near as I can – as near as I recollect – there was an order served for the assessments to be made upon rebel sympathizers of this District of Western Kentucky and West Tennessee to reimburse Union men for their losses and for the depredations committed by rebels, the first order issued on that subject was by Genl. [Stephen A.] Hurlbut and forwarded to Genl. [Andrew Jackson] Smith at Columbus. Genl. Smith then appointed me in connection with W. W. Bigger and Mr. Happy and I think my recollection is a gentleman by the name of Hall living in Mayfield before they were appointed by Genl. Smith to assess - he appointed me from the fact that I was acting magistrate – he gave no instructions how the tax was to be assessed and how the affidavits were to be made. We were appointed and we went on to levy the tax agreeably to the order of Genl. Smith. In the first place he directed us to report to him. We did report and returned the list of assessments in fact that list of assessments was completed at Columbus under the direction of Genl. Smith. The

list returned was objected to and he then directed us to make out another. And sat down and with his own hand wrote out the form complete. We then went on myself and Bigger and Happy to make out the list of assessments agreeably to his directions. He directed us, perhaps I had better speak of that, to procure the tax books, the assessors books of each county which was done. We made out that list and returned it I think the day Genl. Smith left Columbus. I was there when he did leave and I think that was the day we returned the list to Col. Hicks which we did and Col. Hicks issued an order directing us to issue and order or notices to the parties assessed to come forward and pay the several amounts assessed under the order. Sometime afterwards, I don't recollect how long that order was countermanded or rather suspended directing a suspension of these taxes for the time being it stood so till Genl. Paine was ordered to this post. When he came here I returned the papers to him. Genl. Paine directed myself and Bigger to go on and make out the list as heretofore directed with the exception that we were to place it on a book. I think under Col. Hicks administration there was some money paid in. I think perhaps a thousand dollars. I don't think there was any paid in under Genl. Paine's administration the notices had been served mind you under Col. Hicks' administration in part not in whole but as far as these could be the guerrillas were so thick that they could not get out."

Question was whether Dr. Bell was one of those rebel sympathizers assessed – "I think it was, he strictly forbid assessments being made on any Union man and so did Genl. Smith."

Question was what was the condition of the military district prior to Paine's arrival – "Well sir I could state that it was very bad that it was infested with guerrillas. They were frequently shooting at the pickets at night they were here close around town almost every night a Union man dare not go outside the picket lines. Old man Happy one of the commissioners I spoke of ventured to go home and was murdered in his own yard."

Question was were there any changes after Paine took command – Yes indeed, there was a radical change; the change was that there was no more shooting pickets around the place; the change was that union men who had been from home three or four months, and not permitted to go home to see their families went forty odd miles to visit their families. Immediately on information being given that he was removed, every last one of them had to make their escape, some went to Illinois and some to this place, some of them have made attempts for to go home and have been murdered, some of them here in Paducah and a great number have gone to the state of Illinois. I will just further state that one week before his removal from this post I would have been willing to have ventured, to have gone. To my home forty one miles from here with three men and I think I would have been safe. Now I would not go with less than two hundred, for I know death would be my portion if the rebels ever got hold of me. I have not been to my home but once in twelve months last September since the rebels run on me and shot at me; between twenty and thirty shots in my own yard, I have been home with the scout sometime last winter, was a year ago, it was after Major Barnes had raised three companies of the 16<sup>th</sup> Kentucky Cavalry and they formed a larger portion of the scout I think it was in the month of February."

At three o'clock p.m. the court adjourned until tomorrow March 1<sup>st</sup> at 10 o'clock a.m.

Paducah, Ky.

March 1, 1865

10 o'clock a.m.

The court met pursuant to adjournment.

Witness – D. Y. Craig, recalled asked a question in regards to Mayes' character and dismissed.

Witness – J. H. Hines, resident of McCracken County, occupation farmer

Question was would you believe William L. Mayes under oath – “Well I could not say that I would not believe him on oath, I might believe and know him to be a notorious liar in common conversation and common business and so on, but come to swearing he might swear to the truth as well as or another man. I never knew him to swear to a lie – basing my opinion upon his general character for truth and veracity. I would not believe him under oath.”

Question was Mayes loyal – “I never regarded him as such.”

Question was John A. Bracken loyal – “I don't know him to be a union man at all sir.”

Witness – J. W. Caldwell, resident of McCracken County, occupation farmer

Question was would you believe William L. Mayes under oath – “I don't think I would.”

Witness – Roland H. Hall – resident of Paducah, former Provost Martial of the 1<sup>st</sup> Congressional District

Question was are you acquainted with Mayes and his character – “I think I am acquainted with his general character for truth and veracity in the neighborhood in which he lives.”

Question was would you believe him under oath – “I would not sir.”

Question was is he a union man – “I always understood him to be a rebel sympathizer sir.”

Question was whether his horse had been taken – “I don't believe I could fix the day and date, if my memory is correct I think it was in the month of April or May – it might have been the last of April. I had a horse at Mr. Bradshaw's pasture and he was taken away from Mr. Bradshaw's about the last of April or first of May. He was a sorrel horse with both of his hind feet white up to his hocks with a blaze face about six or seven years of age – about fifteen hands high. He was a horse I bought from my mother-in-law. It was kept there and she became alarmed and sent the horse up here.”

Question was did you have any conversation with Mayes regarding the horse – “I had a conversation with him sir in regard to the horse. I wrote him a note in regard to the horse and afterwards saw him here in the city and had same conversation with him in regard to the horse. I wrote him a note that his son-in-law was from information riding the horse and that I wanted him to return the horse or pay me for him and I think I had two conversations with him about it after I wrote the note. I told him that he must pay me for the horse or return the horse, that I recollect very distinctly. I think he did not deny that his son-in-law had my horse but said that his son-in-law was in the rebel army and he did know where the horse was – didn't know as he could get him. I think that was about the substance of what he said.”

Question was did he remark not being able to control armed men – “I charged him with harboring guerrillas while I was an officer and that his son-in-law was there frequently and he said that he was unable to control the men – men came to his house and he could not help it – he did not deny his being there but said that he could not keep men from coming to his house. The last conversation I had with William L. Mayes he came to my office and paid me the one hundred and fifty dollars and I gave him a receipt for the money and told him at the same time if he would return the horse in any reasonable time I would return the money if the horse was as good as he was when he was taken – he said that he thought he knew where the horse was and that he would go and get it.”



Witness – Robert Glover, resident of Paducah, occupation blacksmith

Question was are you acquainted with [Robert] Buck Comperly [14<sup>th</sup> Kentucky Cavalry] the son in law of W. L. Mayes – “I am sir, I have been acquainted with Buck Comperly for over two years. Before I became acquainted with him he was in the rebel army. I have seen him once with a gang of guerrillas. It was on the second Sunday of last June, he and squad of guerrillas; that were together arrested me and took my saddle horse from me. I saw him at the crossroads church eight miles from Paducah.”

Question was did Comperly have a horse with him – “Well he was riding a sorrel horse with white hind feet, one or both of them, I don’t recollect whether he had a blaze face or not – he seemed to be about five feet or fifteen hands high. I cannot tell exactly he seemed to be fagged a little and run down.”

Question was had he seen the horse before – “The horse I didn’t know at the time – I didn’t know where the horse came from, since the horse has been described the description gives good satisfaction that the horse belonged to Capt. Hall.”

Witness – P. H. Hall, resident of Weakley County, Tennessee, occupation farmer, former Major in the United States Army

Question was the condition of this section of the country prior to Paine’s command – “Well sir, the condition of this country before Genl. Paine assumed command was that there were rebel soldiers and deserters and a good many men that perhaps belonged to the regular command were prowling about over the country from fifteen miles out back to my portion of the country. Genl. Paine had not been in command I don’t think four weeks until I could ride from Tennessee here without meeting with a guerrilla”

Question was what particular act produced this change – “I don’t know that it was any particular act but I can say that it was Genl. Paine’s policy, his treatment of the guerrillas after he had Kess shot here he sent an order and had it stuck up in our county town before that – when they had done anything to any guerrillas they had generally shot or interfered with some Union man they never interfered with any Union man while Genl. Paine was in command.”

Witness – Ila M. Davis, resident of Union County, occupation physician

Question was did you have property taken from you by Union troops – There was property taken by Col. Moore by forces said to be under the command of Genl. Paine on the twentieth of August 1864 – some horses and cattle.

Question was what was taken – “There was four or five horses, part of them came back after a while – the cattle also came back – there were saddle pockets and medicine in them and a case of surgeon’s pocket instruments.”

Question was what property have you received back – “The two mares the others returned themselves, the mares and the medicine and the case of surgeon’s instruments were all that was not returned.”

Question was did you inform Genl. Paine your property was taken – “I did not.”

Question was why did you not seek to have your property returned – “I understood that morning – the next morning I had to go out to see a patient – that there was no property given back and that was the reason...”

Question was what was the condition of Union County and adjoining counties prior to Paine’s expedition – “There were at that time a great many guerrillas in there I think then under Johnson and they were pressing into service and taking horses and property and one thing and another.”

Question was what was the condition following Paine's expedition – "Yes sir, I suppose there was but very few after his expedition the guerrillas so far as I know I didn't see any afterwards. I heard of a few in secret places in the county. I didn't come across any for a long time afterwards and even if they were there I only knew from hearsay. I didn't see any there the expedition made a difference."

Witness – Thomas L. Sturgeon, resident of St. Louis, no occupation at present

Question was were you acquainted with D. O. Conn of Union County – "I am yes sir."

Question was whether he knew of the property of Conn being taken by Union soldiers – "I don't recollect the day it was on Saturday the day of the month I am not positive about now I think it was the twenty third day of August 1864. I went down to the mill on Saturday morning on that day and found some colored troops in there helping themselves to flour I judge they got about ten barrels of loose flour and put it into some sacks there were some fifty sacks that they put it in afterwards there were ten barrels taken by some I don't know who. I was not at the mill when the last was taken I was there when the first flour was taken."

Question was who did the flour belong to – "D. O. Conn and Thomas Cluskey owned the mill."

Question was whether Paine was at the mill when event occurred – "No sir."

Question was who was in immediate command of those soldiers – "I could not tell you there didn't seem to be any one in command of them about the mill there was no one in the mill it was locked up and fastened up they got in through the window I presume."

Question where was the mill located – "In Caseyville, Kentucky."

Question was there a great number of southern sympathizers in Caseyville – "I think there were some – a few sir. I cannot say how many."

Question was did guerrillas visit the town - "Yes sir it was a great resort for guerrillas they would come in sometimes by ten or twenty and they came frequently they were in there every three or four days and sometime linger about they came whenever they pleased."

Question was were government boats attacked frequently proceeding my visit and did you see and assist in driving off cattle – "I heard they were frequently attacked. No sir I never did see any driven through nor I never assisted I don't think I was at Caseyville at the time. They were never passed through Caseyville with any."

Question was had not the guerrillas been helped at the mill – "I don't think there was ever any got there to my knowledge there was none got there at the mill that I know of – they never got that low down in town."

Question was did "rebel whiskey dealers give some of the soldiers intoxicating liquors thereby making them insubordinate at Caseyville" – "I suppose that was the case although I didn't see it myself."

Question was were there guerrillas at Caseyville and Union County after Paine's expedition – "I don't recollect of seeing any after Genl. Paine left there I left there and was gone about a month after. I came back I don't recollect of seeing any guerrillas I suppose they were driven out of there and were afraid to come back."

Question was whether the proprietors of the mill were Union men – "I cannot say that Mr. Conn was, no sir. Mr. Cluskey is a Union man."

Question was whether flour was sold to loyal and disloyal alike – "Yes sir."

Witness – J. E. Woodward, recalled to testify

Question was whether W. A. Bell was a loyal citizen – “I could not tell I only know what he had been before. I don’t know but he had turned round and become a loyal citizen.”

Question was did Bell associate with Union men or identify himself as a Union man – “He did associate with some Union men – most of his company was with the other side.”

Question was whether “his wife manufactured clothing for the rebel army assisted by other rebel women” – “I never heard of it.”

Witness – John S. Greathouse, resident of Union County, occupation farmer

Question was what did we (Paine and Greathouse) discuss when they first met – “I saw Genl. Paine at this place, I had a letter of introduction to him, I sent it in and got an audience directly, he told me that he had taken my horses for the reason that two of his men had seen Mrs.

Greathouse and that she had told them believing that they were friends of Adam Johnson that she had told them, for God almighty’s sake to let Adam Johnson know that they were coming, or at any rate to inform him of the situation of things at Uniontown ... I have reflected a good deal about the conversation since you first mentioned the subject I am not sure whether Genl. Paine said what I am about to state to the court, my son had gone to Morganfield that day and returned and fearing that they would take his horse, which was a gelding, he had returned rather secretly through the woods and I suppose the Genl. Paine inferred from what was said by Mrs.

Greathouse that he had been sent to carry the news of the arrival of General Paine.”

Question was whether Paine was willing to return his property – “Yes sir, I think that Genl.

Paine was willing to return the property upon the letter of introduction that I had and from the fact that I had a son that was recently killed in the army which seemed to excite his sympathy. I didn’t recollect whether he questioned me whether I was a union man or not, he unhesitatingly gave me every assistance by orders and sending men to get my horses.”

Witness – R. Branham, resident of Caseyville, occupation trader

Question was what was the condition of Union County prior to Paine’s expedition – “I can state this much, that were very much annoyed by guerrillas for two years previous to Genl. Paine’s visit, they were very frequently in our county and town there was but very few weeks that they were not in town. I don’t know of but few weeks they were not in town. I don’t know of but few weeks they were not in town sometime there was troops there and they did not come.”

Question was there any considerable change since Paine’s expedition – “Yes sir, there was considerable change there has not, I don’t think, been but very few guerrillas in that country since General Paine was there and there has been but very little property disturbed by guerrillas since that time, there has been some troops there for some time back – there was between four and five months that there was no troops there and the guerrillas seemed to have left the country for some cause and they disturbed us but very little. I could state something more on the subject the reasons for saying what I do I was in Morganfield a short time after Genl. Paine left there and there was quite a number of my acquaintances setting in the Post Office and they did not seem to speak as they had done. I just said to them you need not be afraid I know your feelings towards me, one of them asked me when General Paine was coming through that country again I said gentlemen I don’t know whether Genl. Paine will ever pass through this country say I that will depend very much on your good behavior whether you try to get these guerrillas out of the country. You know you have fed and clothed these guerrillas here in all probability if you had not done that Genl. Paine would not have been here. One of them took me one side and says I don’t think we shall be disturbed by guerrillas now because we are about making an arrangement

for the guerrillas to keep out of this country. I told them that I was very well aware that they could do so if they wished.”

The court at 3 o'clock p.m. adjourned to meet tomorrow morning March 2<sup>nd</sup> 1865 at 10 o'clock a.m.

[pages 351 to 376 are missing]

Paducah, Kentucky

March 2, 1865

10 o'clock a.m.

The court met pursuant to adjournment.

Witness – Betty Barber Hughes, resident of Henderson, Kentucky (she was residing at Union Count during Paine's expedition)

Question was did Union soldiers take her property – “I had property taken from me by Union soldiers, it was taken from my farm that I was living on. The property that was taken was four horses three of them was taken at one place and the other was taken at the same time by a different detachment of men. There was a yoke of oxen three milk cows and three negro men one or two of them belonged to my husband's estate the other was hired there was but one man that I had complete control of that was my own man. There were also some saddles taken and a flute and some little ammunition I believe that was about the amount, unless it was some ropes and other things of that kind considered necessary in taking horses there was other property taken from farm belonging to my nephew and son and a man employed on the farm I think I mentioned them before the court here last summer.”

Question was who commanded the troops – “The officer that rode up to my door and spoke to me asked him whose command it was he told me I think that it was Col. Moore's it was a New Jersey regiment – the squad that was there I think was in command of Col. Moore I am not positioned as to the name or the number of the regiment, though it was a New Jersey regiment.”  
Question was has your property been restored to you – “No sir, the negro man returned but he was not fit for service hr returned of his own will.”

Question was did you apply to Paine for the return of your property – “I did not sir, in September I was in the city here and I was advised by Union friends to send a written statement that I could get compensation for my property. I did so and sent it down but I have never heard anything more of it.”

Witness – Joshua D. Hughes. Resident of Union County, occupation book store clerk, son of Betty B. Hughes

Witness pretty much stated the same as the previous witness.

Witness – Peter Acker, former resident of Caseyville (presently in Evansville, Indiana), no occupation at present

Question was what happened on the 19<sup>th</sup> and 20<sup>th</sup> of August 1864 at Caseyville – “I will state just what happened from beginning to end. The army came there on the nineteenth of August in the evening I had my store closed and was up home on account of the soldiers, there were some twenty five or thirty soldiers staid with me all night in the morning my wife had no help to assist

her and I stayed at home to assist. I stayed at home to help her bring water and so on. When the soldiers sat down to the table I went downtown towards the store and there were five or six soldiers trying to break into the back door I was on the other side of the street. I went over and told them that they ought not to do so that there was nothing there that they wanted they put after me for a drink of liquor and I refused to give it to them without orders from an officer they followed me on down towards the corner, at that time there was a provost guard with them and they joined in to have a drink of liquor. As they passed another corner there was another guard there with an officer – said that he had a right to demand a drink of liquor for his men and he said that if I did not give it willingly they would break open the store. Then I concluded to open the door and give them a drink of liquor the officer placed a guard at the door and would not let anybody come in, before I came to the door with the liquor I had drawn not more than a quart there was a high officer came in one of the men after he had one drink asked for another and this officer stepped forth and pushed him clean off the steps when he came up after the second drink. Then the officer very politely said to me, Mr. Acker now close your store, I thanked him and did so and went up home about something like an hour afterwards this officer came up with a guard and arrested me with the charge, I believe, that I had sold liquor to soldiers. I denied it to Genl. Paine but he would not listen to me he had the officer called, the second officer, and the officer said that I had been dealing out liquor to the soldiers another soldier said a negro had told him that I smuggled ammunition to the guerrillas, the Genl. had me escorted back to the house to search for ammunition and ordered them to destroy my liquor - they took hold of the barrels and knocked the heads in and destroyed it all. After they got through searching my house they found nothing there but about four hundred pounds of squirrel shot. I told them that up in the loft they would find a gun two gun locks and curry combs when they brought these things down the officer cursed me and said you have saved them for the guerrillas first there was a bureau in the storehouse that a man had been sleeping in that they broke open and found about a handful of pistol cartridges they took them along and then took me to my dwelling and searched it, then I was taken back to Genl. Paine, then Genl. Paine's order was that I was to be hung by the thumbs and leave me there and if not dead by evening I was to be shot."

Question was whether it was done – "I was hung by the thumbs – the bed cord was put around my wrists and I was tied for some time standing on my toes."

Question was did Paine give the order – "Genl. Paine gave the order."

Question was he present – "No sir he was not present - he saw me hang there and by his order I was released."

Question was what type of abusive language did he use – "I asked Genl. Paine to get some union men to prove my innocence but he would not listen to me. I believe the expression was you are all damned rebels alike and when you get into trouble you will help one another out."

Question was who gave the order to destroy your property – "Genl. Paine."

Question was what was the value of the property destroyed – "There were seventeen hundred and twenty four dollars and ten cents worth. It was not all destroyed ..."

Question was have you filed an application to Genl. Paine for compensation – "There was a message sent through Mr. Gregory for me to make out my list and forward it to Louisville."

Question was did you make an application while Paine was in command – "I made no application only to the board of claims."

Question was are you an unconditional union man – "Well sir, I don't know sir. I have been for my government ever since I have been living here."

Question was asked again – "I am for the government at all hazards."

Question was “did not the officers who brought you to me (Paine), state to me that you had been dealing out whiskey to the soldiers and that the soldiers were drunk or getting drunk” – “Yes sir that was one of the charges one of the officers said that. I didn’t hear anything that the soldiers were drunk or getting drunk.”

Question was how were you hung up – “Well the officer that had the order to tie me up first tried to tie me by the thumbs and it was a bed cord and would not stick when he lifted it around my thumbs and tied it around each wrist and then tied it up to a limb of a cedar tree and I rested on my toes.”

Question was how long – “I could not say how long I don’t know but it might have been an hour maybe longer I could not say.”

Witness – Phillip Snow, resident of Union County, occupation carpenter

Question was what punishment was inflicted upon Peter Acker at Caseyville – “Well I saw him with a rope thrown around a limb of a locust tree and I think tied to his wrists I was not close to him, how long he was there I don’t know I did not see when he was tied up nor when he was loosened.”

Question was for how long did you see him tied up – “Perhaps fifteen to twenty minutes perhaps more.”

Question was how was he supporting his body – “I think he stood on his feet he might have been against the tree he stood close to the tree I think he was standing on his feet.”

Question was have you seen guerrillas at Acker’s store – “I never have seen any in his store I have seen them there about his store. I was generally dodging out of their way when they came in.”

Question was did Acker trade with guerrillas – “I never saw him trade with them.”

Question was “why could Acker remain and sell goods in Caseyville” – “The guerrillas all considered Acker a rebel, they would take his powder and shot and carry it off.”

Question was how do you know guerrillas took powder and shot – “By the statements of persons who were in the store at the time they got the powder and shot.”

Question was what was the condition of the country for several months proceeding Paine’s expedition – “The country as far as I had any knowledge of it, that county was overrun with guerrillas. I enrolled negroes in the month of March after that time I could not go through the country. The union men all had to leave pretty much I staid across the river at Battery Rock, there was about from thirty to forty five refugees that had to run off from the guerrillas.”

Question was what occurred after Paine’s expedition – The guerrillas all left and went into their holes someplace, union men went home, I went through the county on business for several months and was not molested.”

Question was were there many drunk soldiers in Caseyville on that day – “I saw a great many drunk soldiers there; two of them came to my house and wanted something to eat. I asked them where they got the whiskey to get drunk on, they pointed around the house and said there that brick house; at Ackers house sir.”

Question was is Acker a “obstinate malicious rebel sympathizer” – “Well he has been a rebel sympathizer what I call a strong rebel sympathizer.”

Question was why were you at Caseyville – “When he went up there that night after dark I had a skiff on the far side of the river and got a couple of men to row me over home I wanted to see my family. General Paine had come up with his troops and was at Battery Rock opposite Caseyville, that night after directly after I got home - perhaps an hour afterwards some gentlemen came and

rapped at my window blinds and hollered to me and told me not to be scared they were not guerrillas and that Genl. Paine wanted to see me across the river. I went back with them and got on the steamer Colosus and went to Uniontown with Genl. Paine. I came back on the Colosus to Caseyville and got there about the time his forces got in.”

Question was did Paine refuse to return property – “You did not. Several of the inhabitants came to me to get their cattle; some of their cattle were driven down on board the boats. General Paine told me to go down to the boats and sent officer with me and said any person that this man says is a union man let them have their property. That is the reason why I was called away when Peter Acker was tied up.”

Question was can you state whether Acker sold ammunition to guerrillas – “I cannot”

Question was why did you state that he had – “By people telling me that they saw them get the ammunition. I did not say that he sold it to them, they got it there out of the store.”

Witness – Joseph Gerrish, resident of Caseyville, occupation storekeeper

Question was did Paine order goods taken from your store – “Not to my knowledge he did not.”

Question was were goods were taken from your store – “Yes sir, when I went down in the morning the store was full of union soldiers, and almost everything was gone...”

Question was when were these items taken – “They were taken the night of the eighteenth of August it was a very dark and rainy night – that night the troops came in there they were taken at Caseyville they were dispersed among the troops and very few of the goods found there were some reelers found among the black troops.”

What was the value of the property taken – “...about seven hundred and twenty nine dollars amongst it there was a stable loft full of hay and a saddle that was taken out of the loft.”

Question was did Paine cause these articles to be restored to you – “not yet he said he would”

Question was did you file and application with Paine – “I did, he told me as soon as he came to Paducah to come down there and he would see me settle that – he did not want to see any union man suffer.”

Question was do you know if Paine ordered your store to broken into – “I don’t think the Genl. knew anything about it or any of the commanding officers the night was dark and rainy and I think the men just went in there into the porch for shelter.”

Question was did Paine cause your goods to be taken and did he refuse to restore them – “No sir. He never refused to restore them he said he would and Capt. Schoefield went around with me to find them it was charged to the negroes but I can hardly believe that it was them because I saw white men in the store the orderly sergeant and I went to Genl. Paine and he told the sergeant to take a squad of men and put a guard in front of the store – when they got there, there was nothing left but what I have stated.”

Question was whether Acker was an unconditional union man – “I am. I should not say he was he has not been considered so I don’t know what position he may occupy nor was not considered so at that time.”

The Judge Advocate stated to the court – “There is one specification the twenty first under the second charge in regard to which I have introduced no testimony; there is but one witness whose name appears in the specification, I have taken the usual means to procure his attendance and have failed.”

Witness – S. M. Purcelle, resident of Paducah, occupation merchant.

Question was whether W. A. Bell was an unconditional union man – “I am acquainted with Dr. Bell I never so regarded him sir – let me explain a little sir Mr. Bell with others has been cast off by me as belonging to the opposite party here - not that I know of anything he did he never acted with the union party here that I know of. I never heard him say anything.”

Witness – Thomas M. Redd, resident of Paducah, surveyor of customs

Question was are you acquainted with Bell, Alexander, Woolfolk, Rabb, Caldwell and Ford and are they unconditional union men – “I am acquainted with all these men to give my views of Dr. Bell I can just state what I said to him one day that I didn’t believe that he was a union man. I told him so to his face Dr. Bell asked me one day if I would go with him to Genl. Paine’s headquarters and state to him that I believed him to be a union man I told Dr. Bell that I could not that I believed him to be on the other side that he sympathized with the rebellion that is just what I said. Dr. Alexander was a union man for a long time, started with the original union men of late. I have not had much intercourse with him I believe him to be a gentleman he was a union man for a long time and for a long time we operated together associated together for some cause or another I don’t know why we have not operated together for some time. I mean we operated together as far as the real union element – the original union element was concerned with which he was associated in the early days of the rebellion. Mr. Woolfolk has always been regarded as a southern sympathizer a man operating with that party. Mr. Rabb I always considered as such he left here when the federals came here first and did not return for some time. Mr. Caldwell came here from Tennessee he came here as a good union man. We have differed in the conduct of the war and the acts of the administration. Mr. Scott Ford told me one day that he was a union man till the fall of 1861 after he had secured a crop some few miles from Cairo on the Kentucky side and then he avowed his own principles he told me that he was a union man until then – then he was a southern man he told me so in his own words.”

Question was what was the condition of the district when Paine took command – “The condition of the country at that time was rather deplorable the country was infested with rebels, thieves and robbers of every description they were firing on the pickets almost nightly they were alarmed frequently and there was no assurance of any kind of safety. At least everybody felt in that condition here up to the time that Genl. Paine came here. I think the first night that he came here there was a shot or two fired at the pickets after he came here his presence or something else seemed to drive the guerrillas from the country and everybody was more or less quiet – everybody could go out into the country with more or less safety during his administration here the country was almost quiet the whole country in every direction for a circle of thirty miles and even as far east as Christian County even the rebels of Christian County were alarmed by him and were getting out of the way. The execution of one of the guerrillas I believe it was Kesterson seemed to strike terror into them and they left the country or hid themselves from the view of anybody.”

At three o’clock p.m. the court adjourned until tomorrow March 3<sup>rd</sup> 1865 at 10 o’clock a.m.

Paducah, Ky.

March 3, 1865

10 o’clock a.m.

The court met pursuant to adjournment.



Examination of Thomas M. Redd continued

Question was would you believe Woolfolk under oath – “Well sir I can answer that question in this way that I don’t believe any loyal man’s character or the character of an officer of the government is safe in the hands of disloyal men. I don’t believe the character of an officer of the government would be safe in the hands of a man whom I consider disloyal to the government. I can only answer that question in general terms.”

Question was whether Rabb is a disloyal man – “I have always considered him as operating with the party that is trying to destroy this government the question is who is the union man he or I that would be for you to determine.”

Question was do consider Alexander and Caldwell to be loyal men – “I can only draw the distinction between them and myself. We disagree in our notions in reference to the policy that is indicated by the government. I don’t believe that either of them are rebels. I don’t believe that at all but we differ in matters of policy as to the conduct of the war we differ avidly there are some questions that a man can only answer on a general principle I could not answer that question only in that way.’

Question was how your opinions differ from Alexander’s and Caldwell’s – “Well Dr. Alexander and myself differ very widely in reference to the slavery question. We never had but one or two conversations upon it he was opposed to the negro policy of the government while I sustained the government and wanted to see the policy of the government carried out. Mr. Caldwell and myself have differed upon general principles, he was a McClellan man and I was not these were the main points of difference. We just differed upon the general policy of the government without going into particulars.”

Witness – James T. Pierson, resident of Union County, occupation farmer and member of the Kentucky State Legislature

Question was whether he heard Paine make any remarks about Governor Bramlette – “Well I heard Genl. Paine mention something about Gov. Bramlette at this place (Paducah) at an interview that we had with him he spoke of him I think as a traitor or rebel or something to that effect.”

Question was there many persons present when the remarks were made – “I think there were several persons present.”

Question was do you oppose the enlistment of black soldiers – “When they first commenced enlisting negro troops I was opposed to it afterwards I believed that the government had a right to enlist negro soldiers by paying their owners the just compensation for the price of the negroes. The same as they had to take any other property a man had.”

Question was did you discriminate as to the loyalty of the owners – “I always thought that loyal owners should be compensated for all the property taken I never looked upon it that the rebels were entitled to any compensation at all. Men who were in open rebellion against their country.”

Question was did Bramlette oppose the enlistment of black soldiers – “I think probably in some of his proclamations he has opposed the enlistment of negro troops. I don’t know that he has made any effort to prevent it in any other way – I mean by that he has disapproved of it in some of his public writing.

Question was “do you know of any law or resolution of congress authorizing the enlistment of negro troops...” – “Well sir there is a law to that effect I don’t recollect exactly the time that the law was passed it has been passed some time.”

Question was did Bramlette oppose the enlistment of black soldiers after such enlistments commenced in Tennessee and other state – “I don’t think Governor Bramlette if I understand it ever opposed it in any violent way, he objected to troops being enlisted and drilled in the state, he was opposed to the enlistment of negro soldiers, I think his objection was that it was – was that it would be demoralizing to the balance of the slaves in the state. I think he had an interview with President Lincoln that negro troops should be drilled out of the state, not mustered and quartered in the bounds of the state that is my understanding of it.”

Question was are you an unconditional union man – “I always call myself so sir, a union man without any conditions at all. Yes sir I am looked upon as a union man in my county and have cooperated as such with them since this war commenced. I have never been known as anything else.”

Question was what were the circumstances which led you to hear Paine’s statements against Bramlette – “Well there was a small delegation came from Union County here for the purpose of getting a man that Genl. Paine had arrested out of the guardhouse as I stated. While here at that time Genl. Paine made use of that language. Genl. Paine went on to state the great mass of the people of Kentucky were rebels and traitors and he classed Gov. Bramlette and Gov. D. Prentice at the head of the whole concern and he expressed himself that he would like to be at the head of an army to march through Kentucky. He went on talking a good deal; we came down for the purpose a getting a citizen of our county liberated that had been arrested and kept imprisoned some several days I don’t know how the conversation came on he was talking about the states that were in rebellion against the government we were trying to get this man liberated that we didn’t believe to be a very bad man and Genl. Paine seemed to be convinced that there was hardly any loyal men in Kentucky, or very few and that he would I think he expressed himself that he would like to have had an army to march through the state and overrun it.”

Witness – G. L. Tombelle, recalled by the prosecution

Question was did you recall Paine saying anything in regard to Bramlette – “I cannot say that I ever heard him speak if Gov. Bramlette in particular.”

Question was “do you recall being present at a conversation with Genl. Paine when the Hon. James T. Pierson, J. W. Gregory and Joseph Sprague were present” – “I was once with them at Genl. Paine’s headquarters on the Sabbath.”

Question was did you recall anything particular in regards to Bramlette – “I don’t recollect anything in particular in regard to Gov. Bramlette. We were talking about our business.”

Question was were present during the entire conversation – “I was there all the time I suppose I went there with them and came away with them.”

Question was do you find Pierson to be an unconditional union man – “I have been acquainted with him for some twelve years. I do not regard him as an unconditional union man by any means. I don’t think he does hardly co-operate with the true union men of the county. I don’t think he is an administration man.”

Question was if he is not a union man what is he – “I don’t think his sympathies are fully with the union cause. I cannot say that he is an out an out bitter rebel - anything of that kind – what I mean by that is, I don’t think he is regarded as being with the strong union element of the country.”

Question was is he for peace or in favor of an armistice – “I would suppose so. I would suppose he was very much opposed to negro enlistments or anything of the kind. It is very possible that I have heard him express himself on the subject. I think that I have.”

Question was where does he fail in being a union man – “I think by fully endorsing the administration in all of the various proclamations of the president. That is my opinion.”

Question was he in favor of Kentucky neutrality – “It is strongly my opinion that he was and always has been.”

Witness – R. Branham, recalled by the accused

Question was whether Pierson was an unconditional union man – “Yes sir I know him well I could not say he was a true union man heartily cooperating with the true union men of Union County.”

Witness – G. W. Price, resident of Union County, occupation farmer

Question was do find Pierson to be an unconditional union man – “I hardly think he is.”

Witness – Francis H. Shouse, resident of Union County, occupation farmer

Question was do you consider Pierson to be an unconditional union man – “I am acquainted with Mr. Pierson. I do not consider him so.”

Witness – H. B. Eaty, resident of Union County, occupation assessor for the first district sixteenth division

Question was Pierson an unconditional union man – “I cannot say whether he is or not. My association with Mr. Pierson has been very limited for some time I know very little about him I have known him for a great many years.”

Witness – H. Munchhoff, resident of Union County, occupation miller and distiller

Question was Pierson an unconditional union man – “He is not.”

Witness – James Kerney, resident of Caseyville, occupation merchant

Question was Pierson an unconditional union man – “I don’t hardly think he is.”

He also remarked that “he was opposed to having slaves put into the service of the United States.”

Witness – William H. Philips, residence Paducah. Occupation acting Ensign in the U. S. Navy

Question was what was the military condition of this district prior to Paine’s command – “When I first came here it was rather deplorable I think it was about the time Genl. Forrest made some raids in here before that until the administration was changed everything had a downward tendency. I thought in regard to union men every man who professed to be a union man had a feeling existing as if he had no one to protect him. I could hear it all the way up the river from this point to Clifton. After the administration changed we could see a difference in the feelings of the union men, everybody men, women and children who professed to be union men, women and children appeared to be animated and said there were hopes of living again. I heard it expressed by a great many people that came here that they thought there would be a fair prospect of living once more as they spoke it they would have a chance to make another ‘crap’. What I mean by a change in the administration is when the different commanders of this post were changed. When I first came here Col. Hicks was in command and I think Col. Barry took command after him. I will answer this way from Col. Hicks to Genl. Paine.”

At three o'clock p.m. the court adjourned until tomorrow morning March 4<sup>th</sup> 1865 at eleven o'clock a.m.

Paducah, Ky.

March 4, 1865

The court met pursuant to adjournment.

Witness – Henry Bartling, recalled by the accused

Question was were there any carriages brought after Paine's expedition to Union County – "They were brought down on the expedition made by Genl. Paine up in that country I received a lot of buggies from that country I think there was about ten or twelve I think there was one or two turned over to the owners and ten of them I turned over to the Treasury Department and took receipt of the treasury agent for them – Mr. Redd turned over nine at one time and one at another. I am not sure whether I delivered one or two to the owners by Genl. Paine's order to parties who claimed them."

Witness – W. P. Cunningham, resident of Philadelphia, 2<sup>nd</sup> Lieutenant stationed at the guardhouse at Paducah

Question was were you acquainted with M. P. Milam – "I was acquainted with him by seeing him in the guardhouse that was the only time I saw him he was in the guardhouse at the time we were there it was in the latter part of July I think he was placed there July or August I think the latter part of September he was released."

Question was did he have permission to leave the guardhouse – "Yes sir, he often had permission to leave the guardhouse. we sent him out twice a week to go and get shaved he went out to get medicine frequently he had a sore on his hand I don't know whether it was a felon or not – he also used to write prescriptions for himself and send the guard out for medicine."

Question was how many times did he have permission to leave – "I cannot state how often he has went, at least twice a week to get shaved. I think Saturday and Thursday we used to allow him to come out into the office when he wanted to change his clothing to get into his trunk – his trunk was in the office."

Question was how many times was he permitted to go out for medicine – "I cannot state how many times he has went out for medicine he went out whenever he wanted to. Capt. Chapman was very kind he has kept men sick in the office for two or three weeks at a time - kept them under our care. Mr. Doughty from Columbus one – we had him there for two or three weeks."

Witness – Thomas Atherton, resident of Metropolis, occupation dragman

Question was John A. Bracken an unconditional union man – "I am sir he was not an unconditional union man he was not when I left there. I have been away from there some year or two it is two years last fall since I left there."

Question was whether Bracken sent flour and corn meal to Columbus when occupied by the rebels – "The first I knew about it I was living in the town of Lovelaceville where this mill now stands I was living on the street directly from this town to Blandville the first we took notice about it this young Ansel's son of one of the men engaged at the time he passed through with a wagon and team two yoke of oxen a very deep wagon bed I didn't notice it at the time but my mother in law did she supposed that he was taking it from this mill – sometime after this I had been at work a mile and a half from town, I overtook him and came back with this same team he

had no wagon bed on his wagon at all it was about sundown when we got into town I think from the description I had of the bed this same Mr. Backen had proposed to sell one take it and that he got another bed different from the one he had from Bracken it was a very large frame bed it was sorter like the Tennessee cotton wagons larger than those common square Yankee wagon beds the next morning I went down to the mill and this same Ansel and his father had a four horse team down at the mill and while I was there old man Ansel I think it was drove up to the millhouse door to the front door and stopped and he observed to me that he was buying flour here and was going to take it to Columbus and he said he would take flour whenever he wanted to and he said if you report on us we will get after you. I observed to him it was none of my business.”

Question was is Lee Edrington an unconditional union man – “I am acquainted with him and was before this war came up. I think he is an unconditional union man if there is any in the United States.”

Witness – P. H. Hall, recalled by the accused

Question was what were the sentiments of W. P. Caldwell regarding the war – “I have been acquainted with W. P. Caldwell for about fifteen years intimately acquainted with him since the commencement of this rebellion – there was no difference in the union men of Tennessee up to the time of the emancipation proclamation at that time there was a difference gotten up about the issuing of the emancipation proclamation - I endorsed the issuing of the proclamation and Mr. Caldwell did not think it was prudent to issue it and there has been two classes of union men there ever since.”

Question was whether Caldwell supported an armistice – “Well during the presidential canvass me and Mr. Caldwell had several controversies upon that subject. I being an advocate of Mr. Lincoln and he of Mr. McClellan I tried to urge upon him that an armistice indirectly meant recognition and he always contended to the contrary. I tried to get him to admit that an armistice meant a withdrawal of our forces from the Confederate states, he contended that it did not imply that – he was in favor of suspending hostilities for sixty or ninety days and negotiating and sir if they could not make some compromise. I don’t think I would be justified in saying that Mr. Caldwell would be likely to adopt the sentiments of any other man but I believe he reflected the sentiment of what we termed a copperhead party. I had several conversations with Mr. Caldwell on the position of Mr. Etheridge there might have been some peculiar difference but in the main, but he deemed it because it was the policy that would suit his own opinions not simply because it was Mr. Etheridge’s policy.”

Witness – Charles M. Kilgore, resident of Weakley County, occupation farmer

Question was whether M. G. Milam served in the rebel army and how did he treat union citizens – “He has been in the rebel army and his treatment towards union men was very bad.”

Question was how did he treat union citizens – “Well by trying to capture and tar and feather them.”

Question was whether Milam was an unconditional union man – “He is a rebel not an unconditional union man – he is a rebel.”

Question was would you believe Milam under oath – “I would not sir.”

Question was on the condition of region prior to Paine’s command – “It was in a very bad condition sir there had been a great many union men killed and my son was one of them. My wife and myself were driven from home.”

Question was on how had it changed when Paine took command – “There was considerably a change from the report of the union men of that country; I was in Mayfield for four weeks during Genl. Paine’s administration they all stated to me that the guerrillas were going off and that they would rather have him than any man that had ever been in command of this post. I suppose maybe there were twenty or thirty men and women came there I made myself known and I showed my papers and they took my word for union men - when they came there and that was the testimony of every union man that came through there. When I came from Carbondale, Illinois there was a great many that expressed themselves in that way. I am staying there waiting to go home.”

Question was how did you learn of the alleged mistreatments – “From information received from other confidential union men.”

Question was why his behavior was not good – “This son of mine came here some few weeks before Genl. Paine took command and he told him if he had good health he knew very well where he would be – he would be back in the southern army but he had not the health. I have that from my son and he would testify to it if he was here. My son said he was as big a rebel as he ever was and he came here only to be protected so as to make money.”

Witness stated that he was Dr. Milam’s uncle – his wife and his mother are sisters.

The accused here announced that the defense was closed and the Judge Advocate announced that the prosecution had no more witnesses to call in this case.

Paine addressed the court.

May it please the court; a review of the testimony offered in this case I believe unnecessary. I will beg the attention of the court, while I refer to two or three specifications. I shall respectfully ask the court to find me not guilty of the specification to the first charge, for the reason that the Judge Advocate has not proved the words alleged the technical words used by the lawyers, ‘or words to that effect’, do not apply in military jurisprudence. Then if it is material to prove any part of this specification, it is certainly material to prove the language. The testimony was that I said, ‘Gov. Bramlette was a traitor’, or words to that effect. I am not charged with saying those words with the defense to this specification and charge that I rely upon is the impeachment of the witness. The first witness sworn said that he was present and heard what was said at the time by me, the prosecution calls one other witness undoubtedly an unconditional union man, he sat, near me and heard no such words, he would have been as likely to hear it as the witness who swore to it. I then called witnesses from the neighborhood and they swore that Mr. Pierson was not an unconditional union man. This negro question has soured his mind toward the government, he swore that he was an unconditional union man, he is contradicted by his neighbors. The testimony of Mr. Tombelle is that he did not hear that language, the proof of the other neighbors is that he did not tell the truth when he swore that he was an unconditional union man. ‘Falsus in nuo falsus in omnibus’ is a safe law maximo. I don’t think that this witness can pick out a little truth from a good deal of falsehood and I apprehend that the proof is sufficient to show that the testimony of Mr. Pierson is not credible. The first specification of the second charge is for disrespectful language toward Major General Halleck. Major General Halleck was my class mate for four years, we were students together at West Point, never was there a hard word between us. I claim that the only reference made to Genl. Halleck was that Mr. Etheridge cited Genl. Halleck as authority against me, I may have used the words hastily that I did not care a damn not out of

disrespect to Genl. Halleck but to show Mr. Etheridge that he need not quote absent officers to govern me. The character of the testimony on this specification is questionable except in the cases, this man Caldwell, is a friend of Emerson Etheridge, it was in his store I think that the conversation took place, his feelings against me were very positive, he was opposed to my leaving assessments, as ordered by the President of the United States. He was not an unconditional union man, that is not what has been proven. Dr. James Alexander and R. O. Woolfolk have been presented to the court by other witnesses. To Mr. Redd's testimony I would call the attention of the court and also Major Bartling in regard to those men. I shall ask the court to find me not guilty under this specification from the questionable character of the testimony and the discrepancies in the testimony of these witnesses as to the following specifications in regard to the order for the payment of money on Watts, Given & Co. I will say that martial law was declared in Kentucky the very day I assumed command. I assumed command, I would respectfully submit the proclamation of the President declaring martial law in Kentucky to the court. Martial law is defined by the 'Duke of Wellington' to be the will of the commanding general of the army and Genl. Halleck gives the authority; that martial law is the absence of civil law - I cannot give the exact words. Here was Mrs. Birmingham a widow who had earned her money herself although it was deposited in the bank in the name of her husband, she was so poor when she went there to see this man Rabb who, it has been proven is a rebel and left town when the Federal troops came here, even he gave her twenty dollars. Now the reason it was not paid was not because it was not due the woman but for fear my order would not be sufficient plea against the legal representation of the heirs of Birmingham, I would call your attention to the fact that martial law was in force in Kentucky and that the people could not go into a court of justice to obtain redress and I hold that my order presented in a court of justice would be a sufficient justification for the payment of the money. I will cite the case of Genl. Jackson in 1815 although that is not an anagiuise case because martial law was not declared in Louisiana at that time.

In the next specification in reference to the money deposited by C. O. Allard it is proven that they owed his father more money than the amount claimed and that the money was necessary to start the mill.

The next specification to which I wish to refer is in regard to Mr. Bracken the proof is that I went to his mill under Genl. Smith's orders it is not in proof nor can it be found that Edrington destroyed any of Bracken's property. Bracken brought suit against Edrington through Mr. Yeiser there are none of the witnesses but who testify that Edrington has always been a loyal man while Bracken has always been a traitor. I claim that Mr. Bracken should have sued me if he attempted to get redress.

Specification sixth in reference to my ordering Mayes to pay for a horse taken by his son-in-law. It was proven that he has been harboring his son-in-law at his house and that he would not be believed by his neighbors, the next relating to Dr. Bell I never closed his store I never took his money except to obtain two thousand dollars until he could be assessed, his testimony against me is impeached by 7 or 8 witnesses who swear they wouldn't believe him under oath where a Federal officer was on trial. Specification nine in regard to Mr. Bolinger the proof is that my order was to go down to Hickman and get this cotton. I wished to save a union man who had lost \$30,000 worth of property. The boat was carrying private freight as is proven by Capt. Buntin. I confess that if I had taken a team of wagons or a steamboat that was in the government service

that the Q. M. had refused to allow to take private freight it would have made me amendable. I respectfully ask the court to find me not guilty. The next specification to which I would refer is that relating to J. C. Brooks, I am charged with wrongfully authorizing seizure of his property, there is no proof of any such thing. Now the only specification in which there is any proof there I directed the seizure of property is that of Peter Acker all these say that I wrongfully authorized the seizure of property – no man or officer has ever testified to it.

The next is Peter Acker this man was punished for letting men have whiskey and he knew it at the time and was told so. Col. Davidson's testimony was that my order was to seize fat cattle, mules and horses. I submit that testimony to you, they had no authority to take clothes and saddles if they did so."

John W. Hammock swears that he is a union man and it is proven that he shot at a union man in the street because he was a union man. The last specification is in regard to my taking property but this is precisely of the same character with the property taken at Uniontown. If the court will allow, I would like to state that I requested a court should be appointed by the Secretary of War to give me an opportunity of vindicating myself from charges which were preferred of malfeasance on murder that had been made in the newspapers. I regret that such charges have not been put against me as would have enabled me to have made a more general defense and now whatever maybe the decision of the court. I assure you that I shall be perfectly satisfied with it if I suffer for an offense against the rules and regulations of the army of the United States. I shall be satisfied of one thing that is that it was proven in court.

Allow me to say that I am greatly obliged to you for the patient manner you have heard me and the courtesies I have received. I am obliged to the Judge Advocate for the kind and courteous manner in which he has managed the prosecution.

The Judge Advocate replied as follows:

I do not deem it necessary, nor is it in my power at present, to present a summary of the evidence in this case. I will lay before the court an index to the testimony given under each specification and also an index to the testimony given by each witness. I presume the court will be able to come to a conclusion upon each specification without much delay. I call the attention of the court to Section 1 of General Orders, War Department, 1863, No. 100 on the subject – martial law. I also call the attention of the court to one sentence in the President's proclamation of July 19<sup>th</sup> 1864 in regard to the writ of habeas corpus and martial law in Kentucky that sentence is as follows:

'The martial law herein proclaimed and the things in that respect herein ordered, will not be deemed or taken to interfere with the holdings of lawful elections or with the proceedings of the constitutional legislature of Kentucky, or with the administration of justice in the courts of law existing therein between citizens of the United States in suits or proceedings which do not affect the military operations or the constituted authorities of the government of the United States.'

I will read also from the opinions of the Judge Advocate General under the head of evidence – Paragraph (4) which is as follows:

'The experience of the war has shown that little weight is to be attached to the unsupported evidence of witnesses of known disloyalty when it jeopardizes the lives or liberty of loyal men.'



I do not propose to discuss the evidence under the different specifications. I will however call the attention of the court to the fact that under the first specification to the second charge the following witnesses were examined, viz.

V. S. Gillespie

W. P. Caldwell

John Sinnott

James Alexander

R. O. Woolfolk

If I recollect rightly no testimony has been introduced affecting the loyalty of John Sinnott. The court upon reading the testimony will observe whether or not there has been any testimony affecting the loyalty of V. S. Gillespie and also whether the testimony introduced affecting the loyalty of the witnesses named is such as to render their testimony unworthy of credit by the court. It will perhaps be found in nearly all cases to be sustained by witnesses whose creditability is in no way impeached. And it will also be found that the circumstances under which these remarks were made as called out by the cross examination of the accused tend to sustain the allegations.

As to the 2<sup>nd</sup> specification under the second charge in regard to the money required by the accused to be paid to Mrs. Birmingham or her agent, the order upon which that money was paid was brought into the court and its genuineness admitted by the accused.

It is a summary order upon a banking institution of this place to pay a sum of money. The evidence tends to show that this money could not lawfully be drawn from the bank except on the order of an administration of Birmingham's estate. Some day perhaps the child of Birmingham will ask, 'where is mine inheritance?' It does not appear to me that a court order written with the point of a sword will be a legal answer to that question, or will be a sufficient defense by the bank for the payment of that money. It seems to me that the question as to whether the money was earned by Thomas Birmingham or his wife has nothing to do with the case, because at common law the earnings of a married woman belongs to her husband and no law of this state is shown to the contrary. It appears from the evidence given that the money was deposited to the credit of the husband.

As to the 3<sup>rd</sup> specification under the second charge, the genuineness of the order does not depend on the testimony of Rabb but it was admitted by the accused in open court. Now it seems to me not a question whether the money should have been paid to C. O. Allard or not. This court might decide rightly a question as to property between citizens but as it has no jurisdiction of such matters the assumption of such jurisdiction and enforcement of its order would be wrongful and arbitrary. The President by leaving the courts of law in this state in the full exercise of their powers intended that military commanders should not interfere with matters properly cognizable by such courts, but confine themselves exclusively to matters relating to military operations.

The court then adjourned until Monday March 6<sup>th</sup> 1865 10 o'clock a.m.