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Hon. Geo. Boyle Esq.

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TESTIMONY
OF
Jonathan
DOCTOR J. M. FOLTZ,



(OF THE UNITED STATES NAVY,)

BEFORE THE COMMITTEE APPOINTED TO INVESTIGATE THE CAUSES WHICH
LED TO THE DEATH OF THE HON. JONATHAN CILLEY.

104R

1808

Handwritten signature or name, possibly "J. B. Smith" or similar, written in cursive.

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TESTIMONY

OF

DR. J. M. FOLTZ, UNITED STATES NAVY.

Feb. 1828 -

On Saturday, the 24th of ~~March~~, about 1 o'clock P. M., a hackman called at my office, on Pennsylvania avenue, and delivered to me the following note :

1 o'clock, 24th February.

Dr. FOLTZ : I wish to see you on particular business directly at Mrs. Handy's. The hackman will show you the place.

Your friend,

W. J. GRAVES.

During the morning, I had heard the rumor that Messrs. Graves and Cilley were to fight a duel that day, but I was entirely ignorant of all the circumstances relating to it. The hackman drove me to Mrs. Handy's on Louisiana avenue. On entering, I found a number of gentlemen in the parlor ; the first I met with was Mr. Crittenden, and, while shaking hands with him, Mr. Wise stepped up and asked me if I had my instruments with me ? I answered that I had not, but could procure them very soon.

[I beg leave here to remark, that in repeating conversations, although assisted by notes, and carefully charging my memory, I am confident that I am unable to give them in the precise words, in every instance, of the speakers at the time ; but I repeat the impressions left on my mind, as near as possible in the words of the speakers.]

There were bullets on the table, in the centre of the room, and other preparations for a duel. As there were some preparations necessary for me to make, I inquired how soon they would start ? Mr. Wise answered: "Immediately ; get them as soon as you can." As I was about entering the carriage, in front of the house, Mr. Graves called me from a window in the second story. I returned, and met him on the stairs : he asked me if I would accompany him. I informed him that I would, and returned to the carriage. In about half an hour I returned, and informed them that I was waiting at the door. Several gentlemen came out ; among them was Mr. Crittenden, who entered the hack with me, and ordered the driver to take us to the Anacostia bridge.

While on our way, when near the Capitol, Mr. Crittenden informed me that the meeting would be with rifles at eighty paces, but no allusion was

made to the cause and particulars of the affair. The driver mistook the road, and we stopped at the naval hospital to inquire, where I procured additional bandages, in the event of fractured bones from a rifle ball.

When near the ground, I remarked to Mr. Crittenden: "That in case either party received any injury, however slight, that the pain and loss of blood from a very slight wound would produce inequality in the parties; I would, *professionally*, object to a continuance of the contest." He replied: "He was fully of my opinion; would support such a proposition, as he thought it correct; and, again, it was on the side of humanity."

We arrived on the ground between the hours of 2 and 3 o'clock, in company with an omnibus and hack which we had overtaken. The omnibus contained Messrs. Cilley, Jones, Bynum, Schaumburg, and Duncan; the hack, Messrs. Graves, Wise, and Menefee. Mr. Crittenden and myself entered the field, following Messrs. Wise and Jones, who were in advance. After examining the ground, they, Messrs. Wise and Jones, called to me to tell the parties to "come on."

The fence being opened, the omnibus and hacks drove in. I approached the hack containing Messrs. Graves and Menefee, and was invited to enter.

Mr. Graves alluded to the unfortunate circumstance which brought us together, and expressed much doubt in his skill in the use of the rifle. He said "he had not fired a rifle for two years, until that morning; that in using it he had always fired with a rest, and that in shooting off-hand, at eighty yards, he thought he would shoot very badly; that, when hunting small game, he had always used a gun, and he supposed he was the worst shot, with a rifle, in his delegation." I remarked that I knew nothing about the use of the rifle, but recommended him to stand on firm, level ground. Mr. Menefee left the carriage soon after I entered.

I inquired of Mr. Graves if he knew Mr. Cilley well. He replied "that he did not; he knew very little of him, and that he had no personal ill feelings towards him."

Mr. Graves then stated "that he had been the bearer of a note from Colonel Webb to Mr. Cilley, inquiring if his speech had been correctly reported in the Globe. Mr. Cilley refused to receive the note, and declined giving his reasons, which implicated me, in consequence of which I challenged him, but I have no personal animosity towards him."

This was the first intimation I had of the cause of the meeting, and concluded, in my own mind, that it was upon a point of honor which would be settled at the first shot. Being informed that all was ready, we left the hack. Dr. Duncan introduced himself to me as the surgeon, asked me for a tourniquet, and said "he had been unable to procure one." I had but one tourniquet, which I could not part with, but offered him the use of my instruments and my own services, if they should not be required for Mr. Graves.

All parties proceeded to the ground where they assembled. General Jones stated clearly the terms of meeting. Messrs. Graves and Cilley took their positions, standing on a line east and west, on uneven ground; Mr. Graves standing near a wood and fence at the west end; Mr. Cilley standing a very little higher, a hill rising slowly behind him. General Jones, who gave the word, stood north of the line of fire, and Mr. Wise directly south of him, about midway between the parties. There was a

strong wind at the time, falling on the line of fire at an angle of about 45°, against Mr. Cilley.

I stood near to Mr. Graves, and kept my attention fixed closely upon him, to see the instant he might be struck, and observe that his rifle went off fairly. Mr. Cilley fired at or before "one," Mr. Graves at "two." I ran up, found he was unhurt, and handed him a cloak. Neither party were injured. Mr. Cilley's rifle going off immediately after the word "fire," I remarked that he must have shot in the air; but Mr. Wise came up and said that his ball struck the ground half-way.

The friends assembled between the parties, and I understood Mr. Wise to say, "Mr. Jones, cannot this affair be settled?" General Jones replied, "I think it can, if the challenge is suspended." Mr. Wise said, "the exchange of shots suspends the challenge, and the challenge is suspended." Mr. Jones said "he would see Mr. Cilley," and did so; returned, and was about to proceed with the answer, when Mr. Wise suggested that the answer had better be given in writing. Mr. Jones replied, "Mr. Wise, if you require me to put what I have to say in writing, I shall require you to put what you have said and may say in writing." Upon which Mr. Wise said, "Well, then, for the present, let us hear what you have to say, without putting it to writing."

Mr. Jones then proceeded to say, "I am authorized by my friend, Mr. Cilley, to say, that in declining to receive the note from Mr. Graves, purporting to be from Colonel Webb, he meant no disrespect for Mr. Graves, because he entertained for him then, as he now does, the highest respect and most kind feelings; but my friend refuses to disclaim disrespect for Colonel Webb, because he does not choose to be drawn into an expression of opinion as to him." Here the friends separated for consultation.

I joined Mr. Crittenden, and remarked "that I thought the affair should end here; that there were no personal ill feelings between the parties; that they had both proved themselves men of honor and courage; and that Mr. Cilley's opinion of Colonel Webb could not be changed by the further exchange of shots or the receipt of wounds." Mr. Crittenden concurred with me, and expressed a strong desire to stop the contest, hoped all would be settled, and proceeded to Mr. Wise, with whom he entered into conversation.

I then drew Mr. Bynum aside, whose opinion I thought of much importance to a reconciliation, as he had seen much of these affairs. I remarked "that, agreeably to my opinion, the object of gentlemen, in those meetings, was not to kill each other, but at the hazard of their lives to prove that they thought their conduct had been correct." I repeated the substance of my conversation with Mr. Crittenden, and hoped the matter would end here. Mr. Bynum expressed himself in favor of all that I had said, and all parties again assembled.

Mr. Wise remarked, "Mr. Jones, this answer leaves Mr. Graves precisely in the position in which the matter stood when the challenge was sent."

This was followed by some general conversation, when Mr. Schaumburg called attention to what he was about to say, and remarked, "According to the code of honor under which I was brought up and have studied, when a gentleman called upon another for satisfaction, and the gentleman called upon complied with his terms, that the challenged was not required to give any reasons or explanations, but that all propositions must come

from the challenger; he thought if this affair would now be settled, it would be highly creditable to all concerned."

There was much general conversation, but no nearer approach to a reconciliation; the challenge was renewed, and the parties proceeded with their arrangements for a second shot.

After this, I joined Mr. Duncan, and expressed my regret that we were unable to devise some means by which the parties could be brought to an understanding; repeated, in substance, my conversation with Mr. Crittenden and Mr. Bynum. Mr. Duncan lamented the situation of affairs.

All resumed their stations. I being near Mr. Graves, observed him closely as before; at the word "fire," he raised his rifle and fired at, or before, "one." Mr. Cilley fired about the word "three." Mr. Graves moved about in such a manner after the fire, that I supposed he had been shot, and thought so until he placed his mouth to the muzzle of his rifle, and blew the smoke out. I ran up and asked if he was hurt; he replied "no, she went off (his rifle) before I was ready for her."

Mr. Wise came up and said he wished him to be more careful in firing. It was very cold, and their fingers must have been stiff.

The friends again assembled, and Mr. Wise, approaching General Jones, said, "Have you any thing further to say from Mr. Cilley?" Mr. Jones replied "he had not." A conversation now ensued, similar to the one which took place after the first exchange of shots, which, after continuing some time, I remarked, "that I hoped the affair would end here; the gentlemen had met upon a point of honor, which I thought was settled, and there was no bad feeling or animosity between the parties; that Mr. Cilley had stated, that for Mr. Graves he always had, and still has, the highest respect." General Jones nodded assent, and repeated my words. Mr. Wise replied, "that Mr. Cilley had expressed that, before coming on the ground; that Mr. Graves's position was still the same as it was when they first met."

There was no nearer approach to a reconciliation, and preparations were going on for a third shot, when Mr. Bynum remarked, standing near me, "if either of those gentlemen fall by continuing the contest, the community will put their blood on our hands." When this remark was made, I am under the impression that Messrs. Wise and Jones had retired.

The challenge being renewed, I retired towards my station, in company with Mr. Crittenden, regretting mutually the ineffectual attempts which had been made to have the affair terminated. Mr. C. remarked, "If this shot does not take effect, I will take a decided stand."

The shots were exchanged as before; Mr. Cilley fired first, and Mr. Graves immediately after, about the word "two." Mr. Cilley put his left hand to his thigh, and staggered; his friends ran to his assistance. I approached Mr. Graves, inquired if he was hurt, and, being answered in the negative, I proceeded to the assistance of Mr. Cilley.

When I reached Mr. Cilley, I found him stretched out on the ground, in the arms of Messrs. Duncan and Bynum. Mr. Schaumburg was standing over him. Mr. Duncan said, "he is killed," pointing out the place where the ball entered his clothes; he fainted while falling, and was entirely senseless.

I opened his clothing, examined the wound, and found that the ball had passed entirely through the body, and all his clothing. The ball entered

midway between the anterior superior spinal process of the ilium, and the lower edge of the ribs, and passed out opposite, nearer the spine, passing through the intestines and the course of the aorta and vena cava, one of which was doubtless wounded, occasioning his immediate death.

There was a slight pulsation at the wrist when I arrived, which soon disappeared ; his respiration also sinking rapidly, and in five minutes after the receipt of the wound he was dead.

Mr. Wise approached, and asked how Mr. Cilley was. General Jones replied, "my friend is dead."

We left the body in the hands of his friends, who were deeply affected at his loss ; and I returned to town in company with Mr. Crittenden, as I had gone out.

J. M. FOLTZ.

Cross-examination of Dr. Foltz.

Question by Mr. Graves:

Question 1. Did you understand Mr. Graves as attempting to give you a regular account of the cause of difference between Mr. Cilley and himself, in the conversation to which you refer in your general statement? Were we not called from the carriage in the midst of that conversation?

Answer 1. The account given to me by Mr. Graves, as to the cause of the difference between himself and Mr. Cilley, was very brief. In giving the account to me, I do not believe he made use of more words than I made use of in giving my statement. We were called from the carriage while engaged in conversation.

Questions by the committee.

Question 1, by committee. Did Mr. Graves, or his second, at any time before Mr. Cilley fell, communicate to Mr. Cilley, his second, or attendant friends, within your knowledge, that a question of veracity between Mr. Graves and Mr. Cilley was a point of difficulty to be adjusted?

Answer 1. They did not.

Question 2, by committee. Please state what time elapsed between the discharge of the rifle of Mr. Graves and that of Mr. Cilley, on the *first* fire; and whether Mr. Graves could have known that Mr. Cilley had lost his fire, and could have withheld his own.

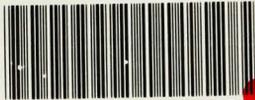
Answer 2. At the first fire Mr. Cilley fired at or before "one," Mr. Graves at the word "two;" in my opinion Mr. Graves could not have known that Mr. Cilley had *lost* his fire, although aware that Mr. Cilley had fired first, and Mr. Graves could not have withheld his own fire.

Question 3, by committee. Please state what time elapsed between the discharge of the rifle of Mr. Graves and that of Mr. Cilley, on the *second* fire; and whether Mr. Cilley could have known that Mr. Graves had lost his fire, and could have withheld his own.

Answer 3. At the second fire Mr. Graves fired at or before the word "one," Mr. Cilley about the word "three." In my opinion Mr. Cilley must have known that Mr. Graves had fired; but, from the excitement of such a situation, Mr. Cilley could not have withheld his own fire.

J. M. FOLTZ.

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