

Witness Depositions

Case # 15397

United States Army

vs.

Col. John Milton Chivington

5 February, 1866

Witnesses for the PROSECUTION

The following depositions have been prepared for council by the records department of the court. Witness testimony has been compiled from a variety of sources, including:

1. U.S. House of Representatives hearings, 38th U.S. Congress, 2nd Session
 2. U.S. Senate hearings, 1864
 3. official army reports and records, November and December, 1864
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Major Edward W. Wynkoop

rank: major
unit: 1st Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Fort Lyon (relieved of command); Denver City, Colorado Terr.

- Wynkoop was commander of the garrison at Fort Lyon until he was relieved command in early November, 1864 by General Curtis.

Testimony

“Numerous eye-witnesses have described scenes to me, coming under the notice of Colonel Chivington, of the most disgusting and horrible character, the dead bodies of females profaned in such a manner that [recounting] them is sickening . . . I have been informed by Captain Booth, district inspector, that he visited the field and counted but sixty-nine bodies, and by others who were present, but that few, if any, over that number were killed, and that two-thirds of them were women and children.”

Lieutenant James Connor

rank: lieutenant
unit: 1st Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Denver City, Colorado Terr.

Testimony

“In going over the battleground the next day I did not see a body of man, woman or child that was not scalped, and in many instances their bodies were mutilated in the most horrible manner ... I heard a man say that he had cut the fingers off an Indian to get the rings on the

hand; according to the best of my knowledge and belief these atrocities that were committed were with the knowledge of J. M. Chivington, and I do not know of his taking any measures to prevent them; I heard of one instance of a child a few months old being thrown into the feedbox of a wagon, and after being carried some distance left on the ground to perish . . . “

Lieutenant James Olney

rank: lieutenant
unit: 3rd Regiment, Colorado Cavalry
superior: Colonel Shoup
posting: Denver City, Colorado Terr.

Testimony

“I was present at the massacre of the Indians at Sand Creek by Colonel Chivington, on the twenty-ninth day of November, 1864. During that massacre, I saw three squaws and five children, prisoners in the charge of some soldiers, who while they were being conducted along, were approached by Lieutenant Harry Richmond, of the third Colorado cavalry, who thereupon immediately killed and scalped the three women and the five children while they (the prisoners) were screaming for mercy; while the soldiers in whose charge these prisoners were shrank back, apparently aghast.”

Lieutenant Joseph A. Cramer

rank: lieutenant
unit: 1st Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Denver City, Colorado Terr.

Testimony

“I estimated the loss of Indians to be from one hundred and twenty-five to one hundred and seventy-five killed; no wounded fell into our hands, and all the dead were scalped. It is a mistake that there were any white scalps found in the village. I saw one, but it was very old, the hair being much faded. I was ordered to burn the village, and went through all the lodges. There was not any snow on the ground, and no rifle pits.”

Sergeant Lucien Palmer

rank: sergeant
unit: Company C, 1st Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Denver City, Colorado Terr.

Testimony

"I counted 130 bodies, all dead; two squaws and three papooses were captured and brought to Fort Lyon. I think among the dead bodies one-third were women and children . . . All I saw done in mutilating bodies was done by members of the 3rd Regiment."

Corporal Amos Mills

rank: corporal
unit: Company E, 1st Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Denver City, Colorado Terr.

Testimony

"Next morning after the battle I saw a little boy covered up among the Indians in a trench, still alive. I saw a major in the 3rd Regiment take out his pistol and blow off the top of his head. I saw some men breaking fingers to get rings off, and cutting off ears to get silver ornaments. I saw a party with the same major take up bodies that had been buried in the night to scalp them and take off ornaments. It was the 3rd Colorado men who did these things. I counted 123 dead bodies; I think not over twenty-five were full-grown men; the warriors were killed out in the bluff . . . Next day I saw Lieutenant Richmond scalp two Indians; it was disgusting to me; I heard nothing of a fresh white scalp in the Indian camp until I saw it in the [trash heap]; there were no rifle pits except what the Indians dug into the sand-bank after we commenced firing."

Robert Bent

occupation: rancher

residence: Spring Bottom, Colorado Terr.

- Robert Bent, the eldest son of William Bent (one of the founders of Bent's Fort), had been asleep on his own ranch near Spring bottom, when the cavalry passed through on its way to Sand Creek.
- According to his own account, he was roused out of bed by Chivington's men and forced to guide the column to the Cheyenne encampment.

Testimony

" ... when we came in sight of the camp I saw the American flag waving and heard Black Kettle tell the Indians to stand around the flag, and there they were huddled — men, women, and children. This was when we were within fifty yards of the Indians. I also saw a white flag raised. these flags were in so conspicuous a position that they must have been seen. When the troops fired, the Indians ran, some of the men into their lodges, probably to get their arms. they had time to get away if they had wanted to . . . I think there were six hundred Indians in all. I think there were thirty-five braves and some old men, about sixty in all. All fought well. At the time the rest of the men were away from camp, hunting . . .

After firing, the warriors put the squaws and children together, and surrounded them to protect them. I saw five squaws under a bank for shelter. When the troops came up to them they ran out and showed their persons to let the soldiers know they were squaws and begged for mercy, but the soldiers shot them all. I saw one squaw lying on the bank whose leg had been broken by a [bullet]; a soldier came up to her with a drawn sabre; she raised her arm to protect herself, when he struck, breaking her arm; she rolled over and raised her other arm, when he struck, broke it, and then left her without killing her. There seemed to be indiscriminate slaughter of men, women, and children. There were some thirty or forty squaws collected in a hold for protection; they sent out a little girl about six years old with a white flag on a stick; she had not proceeded but a few steps when she was shot and killed. All the squaws in that hold were afterwards killed, and four or five [young men] outside. The squaws offered no resistance. Everyone I saw dead was scalped. I saw one squaw cut open with an unborn child, as I thought, lying by her side. Captain Soule afterwards told me that such was the case . . . I saw a little girl about five years of age who had been hid in the sand; two soldiers discovered her, drew their pistols and shot her, and then pulled her out of the sand by the arm. I saw quite a number of infants in arms killed with their mothers . . .

I visited the battleground one month afterwards; saw the remains of a good many; counted sixty-nine, but a number had been eaten by the wolves and dogs . . ."

John S. Smith

occupation: trader and businessman
residence: Fort Lyon, Colorado Terr.

- He had a young, half-Indian son named Jack who was killed at Sand Creek — killed according to some reports, after he had surrendered and was being held captive.

Testimony

"I think about seventy or eighty, including men, women, and children were killed twenty-five or thirty of them were warriors probably, and the rest women, children, boys, and old men ..."

"All manner of depredations were inflicted on their persons ..."

"It would be hard for me to tell who did these things. I saw some of the 1st Colorado regiment committing some very bad acts there on the persons of the Indians and I likewise saw some of the one-hundred day [volunteers] in the same kind of business."

D.D. Colley

occupation: trader and businessman
residence: Denver City, Colorado Terr.

- Mr. Colley did considerable trading with the plains Indians around Fort Lyon.

Testimony

"... The inspector of the district went with me to Fort Lyon, and he went out to the battle-field. The bodies were lying there then. They spent half a day on the battle-field, and found 69 bodies ..."

"The inspector told me that about three-fourths of them were women and children."

Witnesses for the DEFENSE

The following depositions have been prepared for council by the records department of the court. Witness testimony has been compiled from a variety of sources, including:

4. U.S. House of Representatives hearings, 38th U.S. Congress, 2nd Session
 5. U.S. Senate hearings, 1864
 6. official army reports and records, November and December, 1864
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Governor John Evans

occupation: Governor of Colorado Territory

residence: Denver City, Colorado Terr.

- By 1864, Evans had been governor of the Colorado Territory for two years.
- In reality, Governor Evans never testified in front of Congress during the Sand Creek hearings, or ever filed a statement about his role in the affair. However, the following information and events were part of what Governor Evans could have testified about:
- Before Sand Creek, Evans had worked with Colonel Chivington to create the Denver Seminary (later changed to Denver University [DU]).
- In early 1864, Evan was planning on running for a position in the U.S. Congress as the senator from Colorado Territory. He hoped that this would assist him in making Colorado a full-fledged state.
- In June, Evan declared martial law in Denver because of all the Indian raids occurring outside the town. He also issued a letter to all peaceful Indians, telling them to report to their local white Indian agents.
- In August, Evan authorized Col. Chivington to form the Colorado 3rd Volunteer Cavalry in order to deal with the Indian raids.
- In September, Evan met with Major Wynkoop and Chief Black Kettle at Camp Weld outside Denver. He vaguely and casually agreed that Black Kettle's band should be protected under the United States Flag.
- Also in September, Evans was quoted as saying "What (will) be done with the 3rd (Cavalry)? It'll be embarrassing if they're not used."
- In November, Evans was in Washington D.C., when Colonel Chivington engaged the Indians at Sand Creek.
- Evans did not regret that Colonel Chivington attacked the Indian village.

General J. R. Curtis

rank: brigadier general
command: theatre commander, U.S Military District of Kansas and Colorado
superior: the President of the United States
posting: Fort Leavenworth, Kansas Territory

- In reality, General Curtis never testified in front of Congress or ever filed an affidavit. However, the following information was part of what General Curtis would have known about the overall military situation in the West:
- In addition to protecting whites in the West from Indians, Curtis was also responsible for commanding Union troops as they attempted to protect Kansas Territory from the Confederacy during the Civil War. A group of Confederate terrorists named Quantrill's Raiders made frequent raids against Kansas from neighboring Missouri.
- Colonel Chivington wanted Curtis to reassign troops from Colorado to go south to fight the Confederates in Texas. Colorado Territorial Governor John Evans wanted Curtis to keep all the troops in Colorado to protect the territory from the Indians.
- You know that Governor Evans was running for Senate as a candidate of the Union Administration Party.
- On November 5th, 1864, Curtis relieved Major Edward Wynkoop as commander of Fort Lyon, and replaced him with Major Scott Anthony. Curtis relieved Wynkoop because he thought he was being too kind to the Indians by giving them food, supplies and allowing them to stay in the fort.
- Curtis did send a telegram to Colonel Chivington on 20 November, 1864. (This telegram is part of the trial exhibit collection.)
- Colonel Chivington's commission in the Colorado Cavalry expired in August, but Curtis didn't know that until after the battle at Sand Creek.
- Curtis did not regret that Colonel Chivington attacked the Indian village.

Colonel John M. Chivington

rank: colonel
unit: commander of the Military District of Colorado
superior: General Curtis; Governor Evans
posting: Denver City, Colorado Terr.

- John Milton Chivington was a ex-Methodist minister.
- In 1863, Chivington was the commander of a unit of Colorado cavalry that cut-off and repulsed a Confederate advance on Colorado from Texas.

Testimony

"We killed chiefs Black Kettle, White Antelope, and Little Robe, and between four and five hundred other Indians; captured between four and five hundred ponies and mules . . . We found a white man's scalp, not more than three days old, in a lodge."

"Between five and six hundred Indians were left dead upon the field . . . I was shown the scalp of a white man, found in one of the lodges, which could not have taken more than two or three days previous."

"There was an unusual number of males among [the Indians at Sand Creek], for the reason that the war chiefs of both nations were assembled there evidently for some special purpose . . . [Trenches] were found at various points extending along the banks of the creek for several miles from the camp; there were marks of the pick and shovel used in excavating them . . . From the best information I could obtain, I judge there were five hundred or six hundred Indians killed."

"I myself passed over some portions of the field after the fight, and I saw but one woman who had been killed, and one who had hanged herself; I saw no dead children. From all I could learn, I arrived at the conclusion that but few women or children had been slain."

"On my arrival at Fort Lyon, in all my conversations with Major Anthony commanding the post, and Major Colley, Indian agent, I heard nothing of this recent statement that the Indians were under the protection of the [U.S.] government."

Colonel George L. Shoup

rank: colonel
unit: commander, 3rd Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Denver City, Colorado Terr.

Testimony

"From my own observation I should say [there were] about three hundred [Indians killed]. I saw one or two men who were in the act of scalping, but I am not positive."

Major Scott J. Anthony

rank: major
unit: 1st Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Fort Lyon, Colorado Terr.

- In early November, 1864, Maj. Anthony replaced Maj. Wynkoop as commander of the garrison at Fort Lyon. On November 29th, he and the soldiers from Fort Lyon rode with Colonel Chivington in their attack on the Indian camp at Sand Creek.

Testimony

"The loss on our side was 49 men killed and wounded; on theirs [the Indians] I suppose it was about 125."

"At one time I sent out a scouting party and told them to look over the ground. They came back and reported to me that they had counted 69 dead bodies there. About two-thirds of those were women and children."

"I saw one man dismount from his horse; he was standing by the side of Colonel Chivington. There was a dead squaw there who had apparently been killed some little time before. The man got down off his horse, took hold of the squaw, took out his knife and tried to cut off her scalp. I thought the squaw had been scalped before; a spot on the side of the head had evidently been cut off before with a knife . . . I saw a great many Indians and squaws that had been scalped . . . I heard a report some twenty days after the fight that a scalp three days old — a white woman's scalp — was found in the Cheyenne camp. I did not hear anything about that until Colonel Chivington had [returned to] Denver. I was with him for ten days after the fights, and never heard a word about a white woman's scalp being found in [the Indian] camp until afterwards."

"I never saw anything of [Indian bodies being mutilated] . . . Yet it was a matter of daily conversation between us at [Fort Lyon]. I however, did myself see some bodies that were mutilated."

Major Jacob Downing

rank: major
unit: 1st Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Denver City, Colorado Terr.

Testimony

“My own belief, that there were some five hundred Indians killed; I counted two hundred and odd Indians within a very short distance of where their village stood, most of whom were in these trenches, and Indians were killed five and six miles from the village; but of the two hundred killed, I counted about twelve or fifteen women and a few children, who had been killed in the trenches. I did not see any flag over the village, but afterwards, saw a man with a small flag, who said he got it out of a lodge . . . I saw no soldier scalping anybody, but saw one or two bodies which evidently had been scalped . . . I saw no mutilated bodies besides scalping, but heard that some bodies had been mutilated. I don't know that I saw any squaw that had been scalped.”

Doctor Major Caleb Burdsal

rank: major / assistant surgeon
unit: 3rd Regiment, Colorado Cavalry
superior: Colonel Shoup
posting: Denver City, Colorado Terr.

Testimony

“... a soldier came to the opening of the lodge and called my attention to some white scalps he held in his hand; my impression, after examination, was that two or three of them were quite fresh; I saw in the hands of soldiers silk dresses and other garments belonging to women . . . I did not see any Indian scalped, but saw the bodies after they were scalped; I saw no other mutilations; I did not see any kind of flag in Indian camp . . . I know of none being killed after being taken prisoner.”

Captain Andrew Gill

rank: captain
unit: 3rd Regiment, Colorado Cavalry
superior: Colonel Shoup
posting: Denver City, Colorado Terr.

Testimony

" I saw one soldier scalp an Indian."

Sergeant Stephen Decatur

rank: sergeant
unit: 3rd Regiment, Colorado Volunteer Cavalry
superior: Colonel Shoup
posting: Denver City, Colorado Terr.

Testimony

"The next day after the battle I went over the battleground, in the capacity of clerk, for Lieutenant Colonel Bowen, and counted four hundred and fifty dead Indian warriors ... As I was going out to get some of the lodge poles for wood, I saw some of the men, opening bundles or bales. I saw them take there from a number of white persons' scalps — men's, women's, and children's; some [photographs], ladies' wearing apparel and white children's and was part of a lady's toilet and one box of rouge, also a box containing a powder puff. I saw one scalp of a white woman in particular . . . I saw, comparatively speaking, a small number of women killed ...

There were a great many [rifle pits], I did not count the number; they were deep enough for men to lie down and conceal themselves, and load their guns in, some of them I should think deeper than three feet."

Private Thaddeus Bell

rank: private
unit: 3rd Regiment, Colorado Cavalry
superior: Colonel Shoup
posting: Denver City, Colorado Terr.

Testimony

"I saw a good many white scalps there (at Sand Creek), the number, I have not any idea how many. There were those that looked quite old, as if they might have been taken a considerable time; others not so long, and one that was quite fresh, not over from five to eight days old at the furthest . . . The fresh scalp was from a red-haired man."

Private Ashbury Bird

rank: private
unit: Company D, 1st Regiment, Colorado Cavalry
superior: Colonel Chivington
posting: Denver City, Colorado Terr.

Testimony

"I went over the ground soon after the battle. I should judge there were between 400 and 500 Indians killed. I counted 350 lying up and down the creek . . . the scalps were carried away mostly by the 3rd Regiment, [the] one-hundred-day [volunteers.]"