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THE COURT-MARTIAL OF ARTHUR PENDLETON BAGBY, C.S.A.

by *Martin Hardwick Hall*

When Confederate General Henry Hopkins Sibley commenced his invasion of New Mexico in February, 1862, he left part of his Army of New Mexico behind to hold and occupy the El Paso-Mesilla area. William Steele, colonel of the 7th Regiment Texas Mounted Volunteers, commanded this occupation force of about 580 men which consisted of five companies of his own regiment (C, D, E, G, & K) and three other units.¹ Occupation duty proved at best tedious and boring. The men of Steele's regiment found it particularly onerous for they came primarily from green Central and East Texas and now found themselves in what they considered a desolate, barren, alien land. To relieve the tedium and monotony, it is no surprise that many, officers and men alike, turned to the bottle for some degree of comfort and solace. Lieutenant-Colonel Arthur Pendleton Bagby, Steele's second in command, did just that.

On April 16, 1862 at the headquarters of the 7th Regiment at a camp above Doña Ana, Arizona² [New Mexico]—as forelorn a place as a Texan could imagine—Bagby was serving as officer of the day, but allegedly he was so intoxicated that he could not properly perform his duties. While in this condition he apparently without provocation drew, or attempted to draw, his pistol on Captain Hiram Mack Burrows of Company C.³ Captain Burrows, a Methodist minister, naturally deplored the use of spirits, let alone their overuse.⁴ This aversion to "sin" undoubtedly led him to prefer charges against his superior officer.⁵ Bagby apparently sobered up in a hurry, and rather than face the ordeal of a court-martial, immediately submitted his resignation.⁶

Colonel William Steele, who, of course, had been apprized of the matter, addressed a report on April 17, 1862 to Adjutant and Inspector General Samuel Cooper in Richmond, Virginia, enclosing Bagby's resignation⁷ and a summary of the charges lodged against him. The colonel concluded that he himself knew that the charge of drunkenness on duty was true. He also reported that he had authorized Bagby to proceed to his home in Gonzales, Texas, to await the action of President Jefferson Davis concerning the resignation.⁸ Bagby lost little time in catching the stagecoach to San Antonio and from there to Gonzales.

Captain Burrows and Lieutenant-Colonel Bagby might have belonged to the same regiment and were brother officers, but that was where the similarities stopped. The family and personal backgrounds of each were markedly different.

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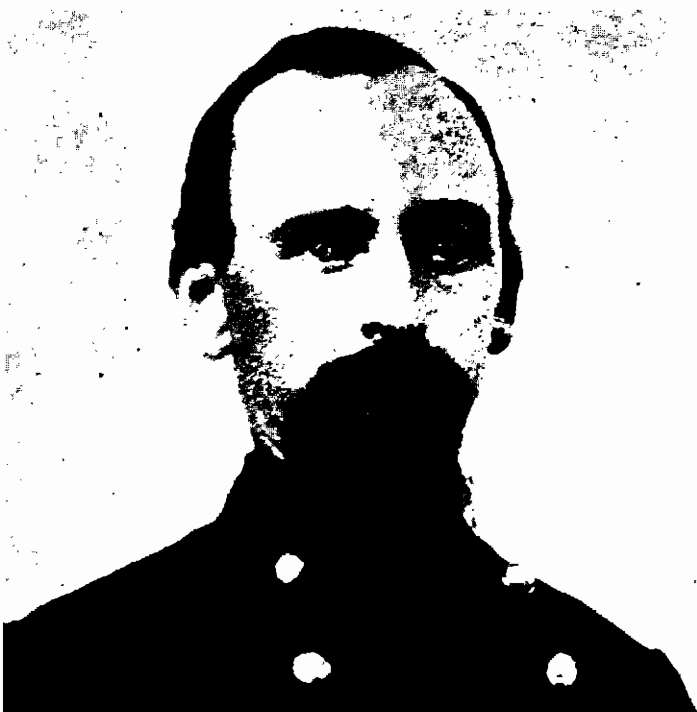
Hiram Mack Burrows was born in Clintonville, Kentucky on May 8, 1821 to a family of modest means. At Clintonville on February 7, 1846, he received the right to preach in the Methodist Episcopal Church, South. After preaching in various counties in Kentucky, Burrows studied medicine in Louisville and was admitted to medical practice. On April 15, 1860 he married Elizabeth Jane Lewis in her father's home in Mount Vernon, Kentucky. The following year Burrows and his wife migrated to Texas, perhaps because two of his brothers had already settled there and sent back favorable reports. Burrows was ordained a deacon in December, 1853, and the Texas Conference of the Methodist Episcopal Church, South, licensed him to preach two years later. He was assigned to the Austin Circuit, then to the Georgetown Mission.⁹ Burrow's only military experience came in 1860 while preaching at Belton. He joined a relief party which raced to the aid of a local ranger company engaged in fighting Indians.¹⁰ On October 7, 1861 Burrows enrolled a company, "The Williamson Grays," in Georgetown, Williamson County. His unit was mustered into Confederate service for "the war" in San Antonio as Company C, 7th Regiment Texas Mounted Volunteers on October 24, 1861.¹¹

Arthur Pendleton Bagby came from an aristocratic Virginia family. The son of Arthur Pendleton Bagby and Anne E. Connell, he was born in Claiborne, Monroe County, Alabama on May 17, 1832. His father was a prominent politician who had served in the Alabama legislature intermittently from 1821 to 1836. In 1837 the elder Bagby was elected governor, and he served until 1841. In that year the Alabama legislature elected him to the United States Senate, and the elder Bagby took his family with him to the nation's capitol. In Washington, D. C., young Bagby saw and heard such great political figures of the day as John C. Calhoun, Henry Clay, and Daniel Webster. In 1848 President James K. Polk appointed the elder Bagby Minister to Russia, in which post he served until the following year.¹² Meanwhile, sixteen-year-old Bagby received an "at large" appointment and entered the United States Military Academy on July 1, 1848. He was graduated July 1, 1852 (39 in a class of 43) and commissioned Brevet Second Lieutenant in the 8th Regiment United States Infantry. He served in garrison at Fort Columbus, New York from 1852 to 1853, and then saw frontier duty at Fort Chadbourne, Texas in 1853. He resigned from the service September 30, 1853¹³ and returned to Alabama to study law. Bagby was admitted to the Alabama bar in 1855 and began his practice in Mobile where his father resided. In 1858, apparently because of the death of his father, Bagby moved to Gonzales, Texas to practice his profession.¹⁴ On June 14, 1860 he married Miss Fannie Taylor.¹⁵ With the outbreak of the war, General Henry Hopkins Sibley appointed him major of the 7th Regiment Texas Mounted Volunteers on October 12, 1861.¹⁶ With

the death of Lieutenant-Colonel John Schuyler Sutton the day after the battle of Valverde (February 21, 1862), Bagby was promoted to Lieutenant-Colonel on April 4, 1862," just twelve days before the incident with Captain Burrows.

After the disastrous New Mexico campaign, what was left of Sibley's forces reached San Antonio where the General established his temporary headquarters. The case of Lieutenant-Colonel Bagby was not over. On August 18, 1862, Alexander M. Jackson, Sibley's Assistant Adjutant General, informed Bagby that his letter of resignation, dated April 16, 1862, addressed to Adjutant General Cooper, and the charges that had been forwarded with it, had been returned to General Sibley with the following endorsement:

"Adj. & Insp. Genls. Office—Richmond July 7, 1862.
"Respectfully forwarded to the General commanding Department of New Mexico—The resignation of Lt. Col. Bagby will not be accepted, and the Secretary of War [George W. Randolph] directs that a Court of Enquiry be convened in this case, according to paragraph 1, General Order 38, Current Series, herewith enclosed."
"By command of the Secy. of War."
(signed) "Jno. Withers, Asst. Adj. Genl.""



*Arthur Pendleton Bagby, Wartime Photograph.
Courtesy The Library of Congress.*

Jackson wrote Bagby that General Sibley, in obedience to the Secretary of War, had ordered that a court-martial be held, and that he was enclosing the order convening it, an official copy of the charges, and the general order of the War Department referred to in the endorsement. Jackson also informed Bagby that he could call any witnesses he desired, and that he must appear for trial before the court at the time and place specified in the general's order.¹¹

When an officer submitted his resignation, it was ordinarily considered a routine procedure and accepted. But Bagby's case was different. He came from an outstanding family, he was a graduate of the United States Military Academy, and he had served in the regular army. In short, the War Department undoubtedly considered him too valuable to lose. Therefore, by refusing his resignation, the War Department made it necessary for Bagby to go through the formality of a court-martial so he could be returned to active duty.

Bagby's court of inquiry convened in Austin, Texas on Monday, September 15, 1862 with Colonel Thomas "Tom" Green, 5th Regiment Texas Mounted Volunteers, as president. The charges and specifications against Bagby were:

Charge 1st—Drunkenness on duty.

Specification—In this, that he, Lieut. Col. A. P. Bagby, 7th Regiment Texas Mounted Volunteers, being officer of the day, was so much intoxicated as to be unable to perform his duties.

This at camp above Dona Ana, N. M.,¹² on or about the 16th day of April, 1862.

Charge 2nd—Conduct to the prejudice[sic] of good order and discipline.

Specification—In this, that he, Lieut. Col. A. P. Bogby, 7th Regiment Texas Mounted Volunteers, being intoxicated, did without sufficient cause, draw or attempt to draw a revolving pistol on Capt. H. M. Burrows, of the same Regiment, while he, (Capt. Burrows,) was in the discharge of the duties of his office.

This at camp above Dona Ana, on or about the 16th day of April, 1862.

(Signed.) H. M. BURROWS

Capt. Com. Co. "C" 7th Rept. T. M. V.¹³

To all these charges and specifications Bagby pleaded "Not Guilty."

The Court after mature deliberation on the evidence adduced . . . [found] Lieut. Col. A. P. Bagby, 7th Regt. Texas Mounted Volunteers, had been drinking on the day specified, yet not to such an extent as to disqualify him from the duties of officer of the day.

The Court, therefore decide[d] as follows:

1st specification—Not Guilty.

1st charge—Not Guilty.

On the specification and 2nd charge, Lieut. Col. A. P. Bagby, was not tried by the Court, for want of jurisdiction.¹⁴

The results of Bagby's court-martial were published at Sibley's headquarters in Marshall, Texas on October 23, 1862. In the printed account,²⁵ Sibley—quite a toper himself—approved the proceedings except for the failure of the court to take cognizance of the 2nd specification and 2nd charge “for want of jurisdiction.” This he considered improper and admonished the court by stating that “If such charges and specifications as these cannot be tried by a military tribunal, convened for the purpose of deciding upon all infringements of the rules and articles of war, or good order and military discipline, Court Martials have become a farce, and had better be discontinued.” Nevertheless, General Sibley ordered that the charges against the accused be dismissed and that Bagby should rejoin his regiment for duty.²⁶

Captain Burrows must have been embittered by the outcome of the court-martial, but there was nothing he could do about it. Military justice had prevailed! Burrows remained a captain for the remainder of his military career. He had suffered for some time from chronic granular ophthalmia with frequent attacks of neuralgia of the head and face, so far reasons of health, he resigned his commission on October 2, 1863 and returned to civilian life.²⁷

General Sibley was shortly relieved of his command by soon-to-be General Thomas “Tom” Green²⁸ and sent to Louisiana to serve under General Richard Taylor. Following the retreat from Fort Bisland and Franklin, Louisiana (April 12-14, 1863), Taylor charged Sibley with disobedience of orders and conduct unbecoming an officer. At his court-martial held in Shreveport, Louisiana on September 25, 1863, Sibley pleaded “Not Guilty” to all charges and specifications. The court, however, found all the charges and specifications “proven,” but because of extenuating circumstances, acquitted Sibley.²⁹ The general's career was ruined nevertheless. For the duration of the war Sibley remained relegated to a minor role in the Trans-Mississippi theatre.

In contrast to Burrows and Sibley, Bagby's star began to rise. On November 15, 1862 he was promoted to colonel of the 7th Regiment Texas Mounted Volunteers.³⁰ This must have truly irritated Captain Burrows of Company C. Bagby took part in the recapture of Galveston on January 1, 1863, and was transferred to General Richard Taylor's command in Louisiana. He received a wound at the battle of Fort Bisland (April 12-14, 1863).³¹ From October 1, 1863 to April 26, 1864 he commanded what had been Sibley's Brigade.³² On March 17, 1864 he was promoted brigadier-general and led his brigade in the Red River campaign, fighting at Mansfield, Louisiana (April 8, 1864) and Pleasant Hill, Louisiana (April 9, 1864).³³ On January 9, 1865 General Simon Bolivar Buckner recommended Bagby, now commanding four brigades of cavalry (two from Texas and two from Louisiana) for promotion to major-general of cavalry. General E. Kirby Smith, com-

mander of the Trans-Mississippi Department approved Bagby's promotion on January 13, 1865.¹

From the evidence, it appears that Bagby, indeed, had overimbibed at Doña Ana. Undoubtedly he would have preferred to have been with Sibley's main force so he could have engaged the enemy on the battlefield as a true soldier should. Instead, during the New Mexico campaign proper, he had been relegated to inactivity and boredom. Burrows, of course, was a moralist by virtue of being a "man of the cloth." But, in a sense, he had "sinned" against the unwritten army code by bringing charges against a fellow officer, and for merely drinking at that. Surely his brother officers, including those who composed the court-martial, therefore considered him somewhat of a "misfit." Sibley, however, was the least justified in criticizing Bagby's action at Doña Ana. The general had long been known for his excessive drinking, a trait which severely affected his judgment, limited his potential, and eventually brought about his ruin. Bagby was an intelligent, well educated soldier, and a polished gentleman. As a result of his leadership and martial qualities, he rose to the top while Burrows and Sibley fell by the wayside. In short, if an officer possessed Bagby's innate warrior characteristics, drinking on duty, or even getting drunk, was no deterrent in gaining promotion and recognition in the Confederate Army.

NOTES

¹The three companies were Company A, 2nd Regiment Texas Mounted Rifles, Captain James Davis' Artillery, and "The Arizona Guards."

²On August 1, 1861 Lieutenant Colonel John Robert Baylor, 2nd Regiment Texas Mounted Rifles, proclaimed the creation of the Confederate Territory of Arizona which was to comprise approximately the southern halves of the present-day states of Arizona and New Mexico. Proclamation of John R. Baylor, August 1, 1861, *The War of the Rebellion: A Compilation of the Official Records of the Union and Confederate Armies*. 128 vols. (Washington, 1880-1901), Series I, IV, 20-21. Hereafter cited as *O. R. A.* The Confederate government officially confirmed Baylor's creation of Confederate Arizona on January 14, 1862. *Journal of the Congress of the Confederate States of America, 1861-1865*. 7 vols. Sen. Doc. 234, 58 Cong., 2 Sess., Serials 4610-4616 (Washington, 1904-1905), 1, 691.

³General Orders, No. 63, Headquarters Sibley's Brigade, Marshall, Texas, Oct. 23, 1862. Hereafter cited as General Orders, No. 63. Compiled Military Service Record of Arthur P. Bagby, National Archives.

⁴Macus Phelan, *A History of Early Methodism in Texas, 1817-1866* (Dallas, 1924), 378. Although a captain, Burrows did not neglect his religious calling. A trooper stationed at Fort Lancaster, Texas noted the arrival of "The Williamson Grays" at that post on January 21, 1862: "Nothing interesting until night, when we hear a splendid sermon; delivered by Rev Cap't Burres [sic] of Steele's Reg't." W. W. Heartsill, *Fourteen Hundred and 91 Days in the Confederate Army* (Marshall, Texas, 1876), 50.

⁵General Orders, No. 63.

⁶A. M. Jackson to A. P. Bagby, August 18, 1862, Sibley's "Letters Sent" Book. Courtesy of Mrs. Varena L. Hatcher, Houston, Texas.

⁷Unfortunately, the National Archives was unable to locate Bagby's letter of resignation.

⁸Steele noted that he was sending this material directly to Cooper because of the difficulty of communication with General Sibley. Although Sibley was now in northern New Mexico, Federals held Fort Craig between Steele and Sibley's force. Steele to Genl. S. Cooper, April 17, 1862, Letters Sent by General William Steele's Command, March, 1862 - May, 1863, Chapter II, Volume 270, National Archives.

⁹Biographical data courtesy of Mrs. Vivian Taylor of De Kalb, Texas, Mrs. Lucille Burrows Fouts Raborn of Nacogdoches, Texas, and Mrs. T. O. Beasley of The Methodist Publishing House, Nashville, Tennessee. Mrs. Taylor and Mrs. Raborn are granddaughters of Captain Burrows.

¹⁰George W. Tyler, *The History of Bell County*, copyright 1936 by Mrs. George Tyler; new ed., Dayton Kelley (Belton, 1966), 191.

¹¹Compiled Military Service Record of Hiram M. Burrows, National Archives.

¹²Thomas McAdory Owen, *History of Alabama and Dictionary of Alabama Biography* (Chicago, 1921), 71; Walter P. Webb (ed.), *Handbook of Texas*. 2 vols. (Austin, 1952), I, 94.

¹³Academic Record of Arthur Pendleton Bagby, Class of 1852, extracted from *Official Register of the Officers and Cadets, USMA, 1849-1852*; extract from the 1924 *Annual Report of the Association of Graduates, USMA, 58*. Courtesy of the United States Military Academy, West Point, New York.

¹⁴Webb (ed.), *Handbook of Texas*, I, 94; 1924 *Annual Report of the Association of Graduates, USMA, 58*; *Biographical Directory of the American Congress, 1774-1949* (Washington, 1950), 802.

¹⁵Marriage Certificate of Arthur P. Bagby and Fannie Taylor. Copy courtesy of B. J. Fullilove, Clerk of the County of Gonzales.

¹⁶A. M. Jackson to A. P. Bagby, October 12, 1861, Sibley's "Letters Sent" book. Courtesy of Mrs. Varena L. Hatcher, Houston, Texas.

¹⁷Theo. Noel, *A Campaign From Santa Fe to the Mississippi; Being a History of the Old Sibley Brigade From Its First Organization to the Present Time; Its Campaigns in New Mexico, Arizona, Texas, Louisiana and Arkansas, in the Years of 1861-2-3-4*. (Shreveport, 1865), 123-124, 130.

¹⁸A. M. Jackson to A. P. Bagby, August 18, 1862, Sibley's "Letters Sent" book. Courtesy of Mrs. Varena L. Hatcher, Houston, Texas.

¹⁹Jackson to Bagby, August 13, 1862.

²⁰It is strange that this official document refers to Doña Ana as being in New Mexico. As stated in footnote #2, the Confederacy had created the Territory of Arizona and although at this time it was occupied by Union forces, it was still recognized by the Confederate government as Arizona. Doña Ana was well within the boundaries of Confederate Arizona.

²¹General Orders, No. 63.

²²General Orders, No. 63.

²³Unfortunately, the National Archives was unable to locate the manuscript proceedings of the court martial of Lieutenant Colonel Arthur P. Bagby.

²⁴General Orders, No. 63.

²⁵Compiled Military Service Record of Hiram M. Burrows, National Archives.

²⁶Thomas Green was promoted to brigadier general on May 23, 1863. Compiled Military Service Record of Thomas Green, National Archives.

²⁷*O. R. A.*, Series I, XV, 1093-1095.

²⁸Compiled Military Service Record of Arthur P. Bagby, National Archives.

²⁹Mark Mayo Boatner III, *The Civil War Dictionary* (New York, 1959), 38.

³⁰Noel, *A Campaign From Santa Fe to the Mississippi*, 147.

³¹Boatner, *The Civil War Dictionary*, 38.

³²Compiled Military Service Record of Arthur P. Bagby, National Archives.