

An Injustice at Greenbush Cantonment

The Execution of Pvt. Samuel Helms
War of 1812

OUTLINE OF PROGRAM

- ❖ Why did the war start?
- ❖ Brief History of Greenbush Cantonment
- ❖ Map and Key to Cantonment Buildings
- ❖ Greenbush Cantonment today
- ❖ Read the first-hand account of the execution of Pvt. Samuel Helms
- ❖ The Illegal Execution of Pvt. Samuel Helms – with Supporting Research and Documents.
- ❖ Mission to change military record

Why did the war start?



- British ships were attacking American vessels on the high seas.
- The British were not ready to recognize American rights at sea.
- Repeated conflicts led to the War of 1812 between the two countries.

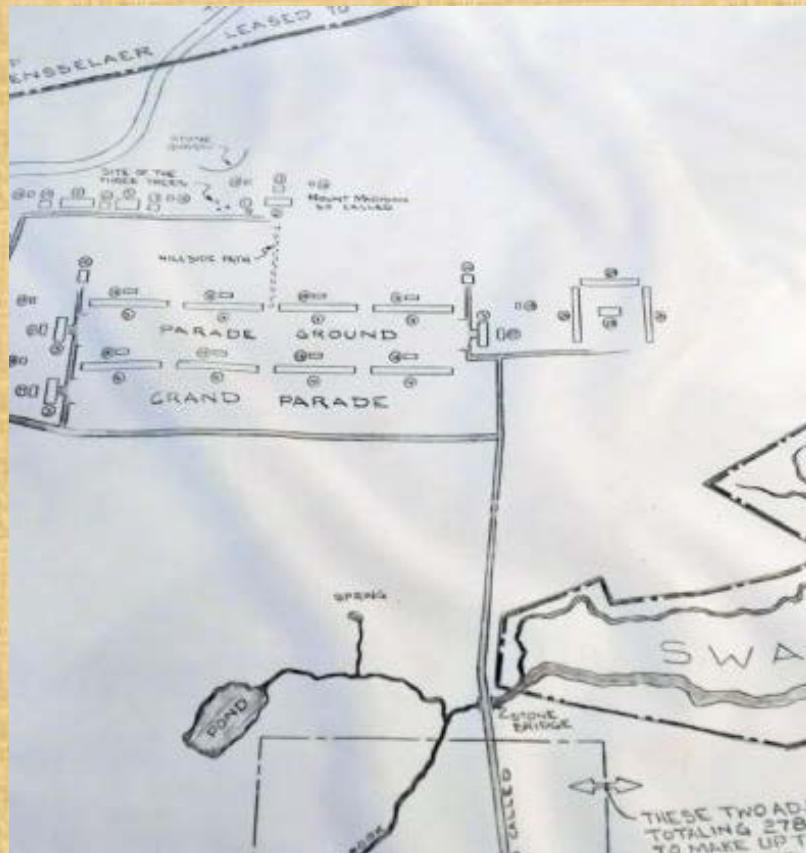
A BRIEF HISTORY OF GREENBUSH CANTONMENT WAR OF 1812

- The Greenbush Cantonment was the headquarters for the American Army Division of the North. It quartered over 4, 000 men.
- **PURCHASE:** IN 1812, GENERAL DEARBORN OF THE US ARMY, ACTING AS AN AGENT FOR THE US GOVERNMENT, PURCHASED THE LAND, CONSISTING OF 400 ACRES WHERE THE CANTONMENT WOULD BE CONSTRUCTED, FROM STEPHEN VAN RENSSELAER.
- **LOCATION:** THE SITE WAS CHOSEN BECAUSE IT WAS ½ WAY BETWEEN NEW YORK CITY AND CANADA AND NEAR THE HUDSON RIVER.

General
Dearborn



- **BUILDINGS:** THE BUILDINGS CONSISTED OF 8 BARRACKS FOR ENLISTED MEN (252' LONG, 22' WIDE AND 2 STORIES HIGH). THESE WERE ARRANGED 4 ON A SIDE FACING THE PARADE GROUNDS. 3 OFFICERS' QUARTERS (EACH 90' LONG, 22' WIDE AND 2 STORIES HIGH), ARRANGED AT RIGHT ANGLES FACING THE PARADE GROUNDS. RED MILL SCHOOL SITS WHERE THE PARADE GROUNDS WERE. ONLY ONE BUILDING REMAINS...ONE THAT USED TO BE AN OFFICERS' QUARTERS. TO THE NORTH STOOD 2 LARGE COMMISSARY STORE HOUSES AND THE BARRACK MASTER'S HOUSE, TO THE EAST STOOD THE BRICK ARSENAL. ON THE TOP OF THE HILL OVERLOOKING THE WHOLE COMPLEX STOOD THE GENERAL'S QUARTERS ALONG WITH THE HOSPITAL AND SURGEON'S QUARTERS. AROUND THE GROUNDS STOOD SEVERAL SMALLER BUILDINGS SUCH AS THE GUARD HOUSE, COOKING HOUSES, MEDICINE SHOPS AND HORSE STABLES...ALL PAINTED WHITE.





- **SAMUEL WILSON:** SAMUEL WILSON, A MEAT PACKER FROM TROY DELIVERED FROM TIME TO TIME A SHIPMENT OF BEEF TO THE CAMP AT GREENBUSH, WHERE THE SOLDIERS FROM TROY DESIGNATED IT AS “UNCLE SAM’S” IMPLYING THAT IT WAS FURNISHED BY SAMUEL WILSON, WHO THEY AND OTHER PEOPLE OF THE TROY AREA WERE ACCUSTOMED TO CALLING “UNCLE SAM”. THE OTHER RECRUITS, THINKING THAT THE TERM WAS APPLIED TO THE LETTERS U.S. STAMPED UPON THE BARRELS OF BEEF BY GOVERNMENT INSPECTORS OF THE BEEF, BEGAN USING THE APPELLATION “UNCLE SAM” FIGURATIVELY FOR THE UNITED STATES.
- **AFTER THE WAR:** WHEN THE WAR OF 1812 ENDED, A FEW TROOPS REMAINED AT GREENBUSH CANTONMENT UNTIL MAY 2, 1831 WHEN THE US GOVERNMENT SOLD THE LAND TO HAWTHORNE MCCULLOCH. IN 1843 THE LAND WAS DIVIDED INTO 2 PARTS; ONE PART SOLD BY HAWTHORNE MCCULLOCH TO HIS SON, WILLIAM A. MCCULLOCH, WHO BUILT “HAWTHORNDEN” WHICH STILL STANDS TODAY. THIS BUILDING WAS MADE FROM MATERIALS FROM THE DEMOLITION OF THE CANTONMENT BUILDINGS. ANOTHER BUILDING BUILT IN GREENBUSH FROM THE DEMOLITION MATERIALS OF THE CANTONMENT WAS THE GREENBUSH AND SCHODACK ACADEMY LOCATED ON WHAT IS NOW COLUMBIA TURNPIKE NEAR WHERE THE GREENBUSH REFORMED CHURCH IS TODAY. THAT SCHOOL WAS BUILT IN 1831 AND DESTROYED BY FIRE IN 1915.



Greenbush Cantonment Today

One of the officers quarters is the only remaining building of the Cantonment complex. It is now a well-maintained private residence.



Key to Cantonment Buildings

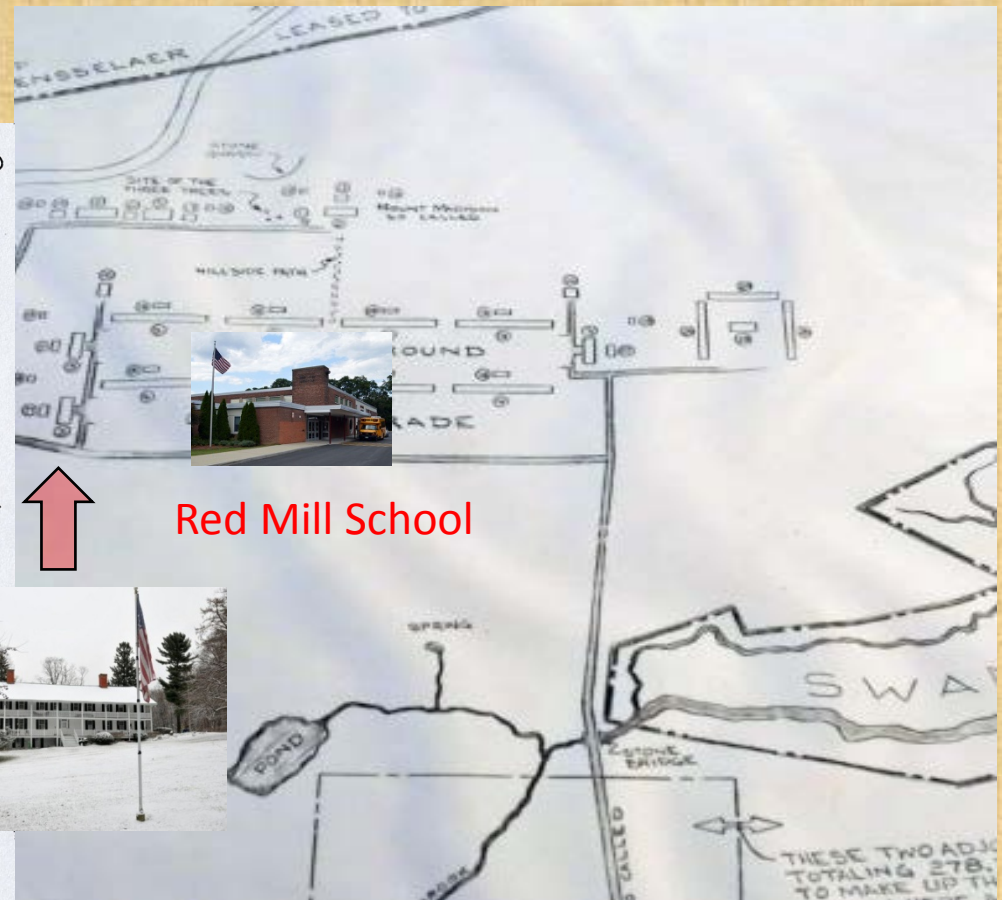
KEY TO CANTONMENT BUILDINGS

- ① FLAGSTAFF
- ② GENERAL AND FIELD OFFICERS QUARTERS
- ③ OFFICERS QUARTERS
- ④ SOLDIERS BARRACKS
- ⑤ SURGEON & PHYSICIANS' QUARTERS
- ⑥ STORE FOR DRUGS & MEDICINES
- ⑦ HOSPITAL
- ⑧ POWDER MAGAZINE (BRICK BUILDING)
- ⑨ LABORATORY (BRICK BUILDING)
- ⑩ ARSENAL
- ⑪ STOREHOUSE
- ⑫ SMITHS SHOP
- ⑬ ARMORY
- ⑭ CARPENTERS SHOP
- ⑮ CAMP GUARD HOUSE
- ⑯ PROVOST GUARD HOUSE
- ⑰ KITCHEN
- ⑱ LATRINE
- ⑲ FARRIERS SHOP
- ⑳ HORSE STABLE

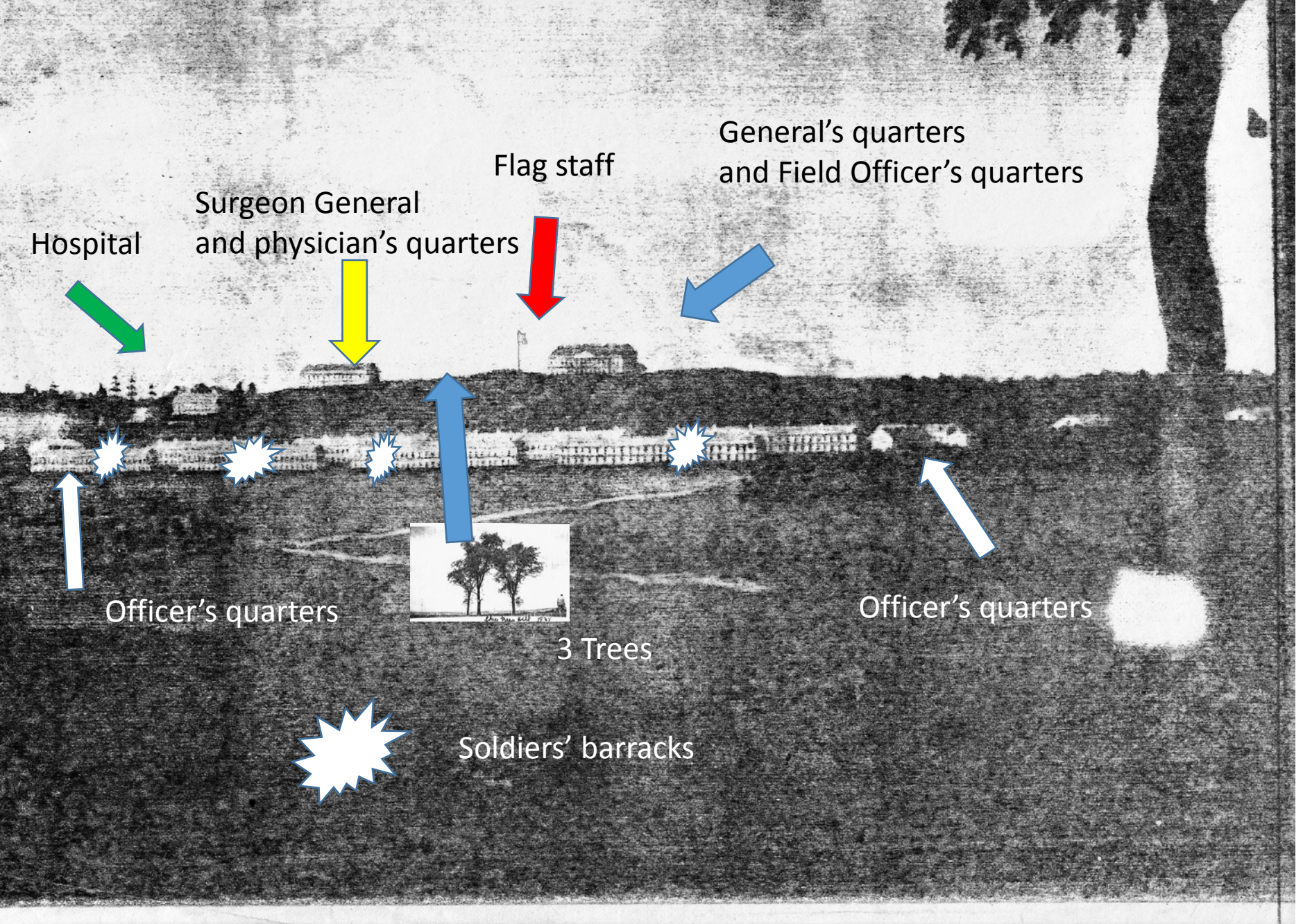
WILL

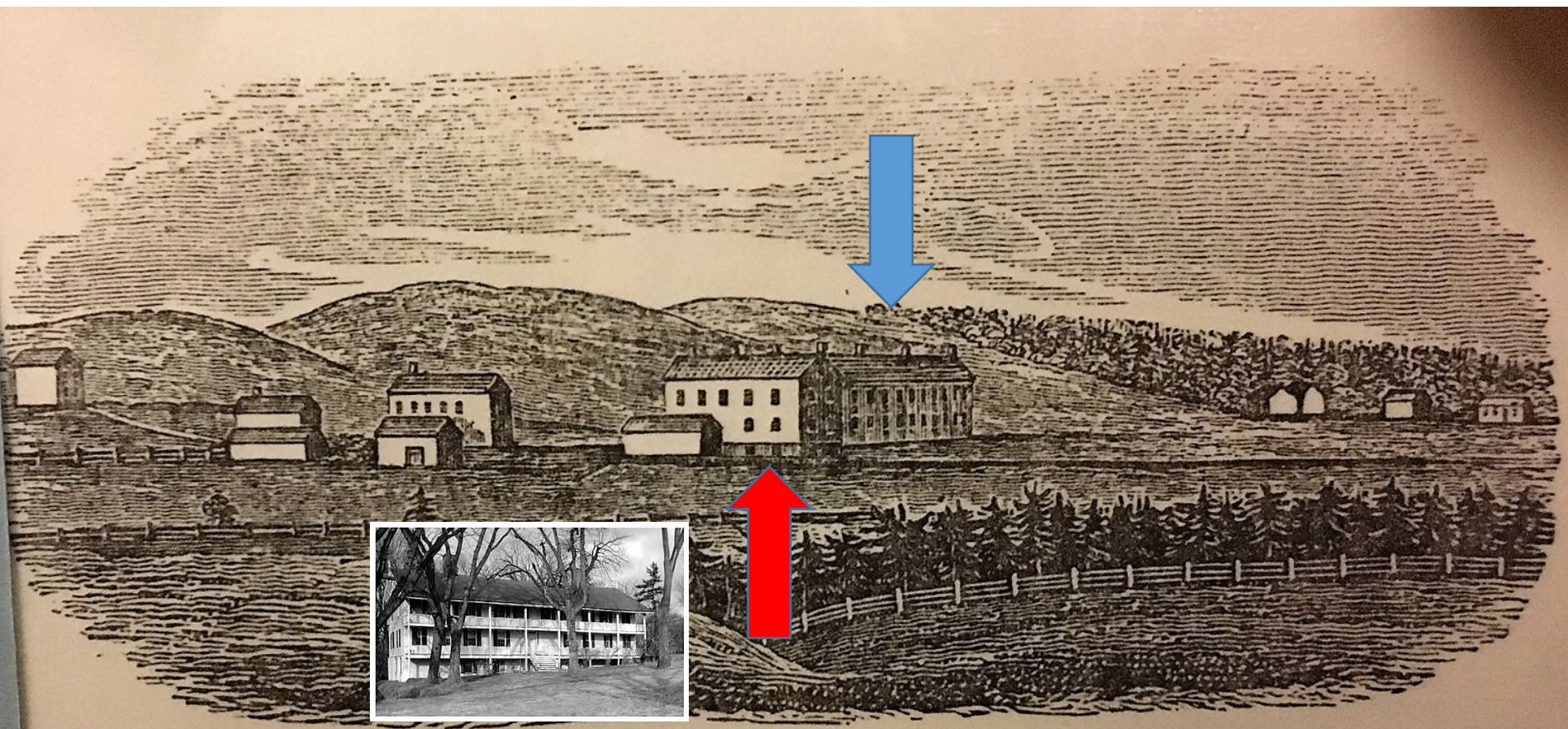


Red Mill School



Map by Jesse Cunningham





Remains of the Barracks at Greenbush 1840

THE EXECUTION OF PVT. SAMUEL HELMS

PVT. SAMUEL HELMS

FROM MY RESEARCH I HAVE FOUND VERY LITTLE RECORDS OF PVT. SAMUEL HELMS SUCH AS HIS ENLISTMENT OR OF THE COURT MARTIAL TRANSCRIPT OF HIS TRIAL, IF IT EVER EXISTED. I HAVE NOT BEEN ABLE TO LOCATE ANY DESCENDANTS, LIVING OR DECEASED AS OF YET. I DO KNOW HE WAS WITH THE NEW YORK MILITIA, UNDER VAN BEUREN IN CAPTAIN JOSEPH DELAFIELD'S COMPANY, 1 REGIMENT MILITIA IN ULSTER COUNTY, NEW YORK.

I AM OF THE OPINION HE WAS BROUGHT TO GREENBUSH CANTONMENT UNDER ARREST, PLACED IN THE PROVOST GUARD HOUSE AND TRIED FOR THE CHARGE OF DESERTION ALONG WITH LT. JAMES D. COBB, WHO WAS TRIED FOR CONDUCT UNBECOMING AN OFFICER, LT. BLAUVELT, WHOSE CHARGE IS UNKNOWN, AND LT. CURTIS WHOSE CHARGE IS ALSO UNKNOWN. ALL OF THEM WERE FOUND GUILTY. LTS. COBB AND BLAUVELT WERE DISMISSED THE SERVICE AND LT. CURTIS SUSPENDED FOR A LIMITED TIME. PVT. SAMUEL HELMS WAS SENTENCED TO BE EXECUTED AND WAS PUT TO DEATH IN THE LATTER PART OF AUGUST OR EARLY PART OF SEPTEMBER OF 1813.

What is the difference between desertion and AWOL?

- **Desertion:** It is true that desertion could result in the convicted offender receiving the death penalty. Although the maximum penalty for desertion during a time of war is death, only one person since the Civil War has ever been executed. Private Eddie Slovik was executed in 1945. The offense of an Article 8 desertion does carry much greater punishments than any AWOL Article 86 charge. Although many people think that if a service member goes absent without permission for more than 30 days the charge will automatically be upgraded to desertion, this is not so.
- **Intention Defines Offense:** Actually, if a service member had intended to return to military duty and "control" at some point, this person would be tried under Article 86, AWOL, not as a deserter. This is true even if the person remained absent for 20 years or more. However, if a service member went absent without authorization – for even a minute – and then was captured – this person could, indeed face charges of desertion. The prosecutor in such a case must prove the service member intended to stay absent permanently. But, if this service member went on an unauthorized absence to avoid important duty such as a combat deployment, no intent needs to be determined to support desertion charges. But this would not include failure to report such activity as training, maneuvers, guard duty and other activity since these are not considered "important duty." This term is usually applied to "hazardous" duty like combat deployment or possibly duty on certain naval ships when deployed to a combat zone.

This is an excerpt from the first-hand account of the execution authored by the unknown surgeon. I highlight this portion to show Pvt. Helms' intent to return.

Prompted by feelings of pity, I called next morning to see him in prison. There, chained by the leg to a beam of the guard house, he was reading the Bible, trying to prepare himself, as he said, for the fatal hour. I learned from him the circumstances of his case. He was the father of a family, having a wife and three young children thirty or forty miles from the camp. His crime was desertion, of which he had been three times guilty. His only object in leaving the camp in the last instance was to visit his wife and children. Having seen that all was well with them, **it was his intention to return.**



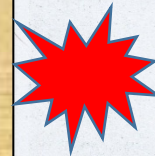
Excerpt from the History of
Greenbush, New York
From Landmarks of
Rensselaer County
By George Anderson
Published by D. Mason & Co.
Publishers, Syracuse, NY 1897

This is Pvt. Samuel Helms' Muster Roll for the date of October 22, 1812. He was listed as AWOL on October 2, 1812 but this notation was crossed out and noted
 * So (soldier) on roll. He had returned.

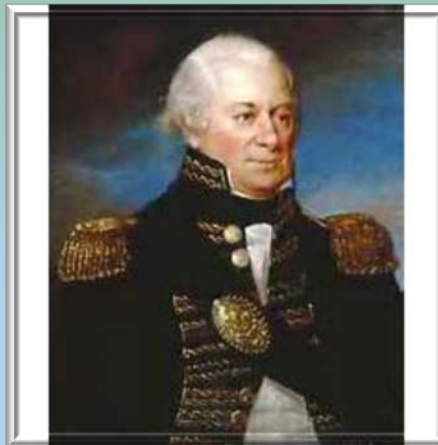


Document
 received from
 the National
 Archives

16/ 1 N. Y. Militia.
 (Van Beuren's.)
 Samuel Helms.
 Pvt. { Capt. Joseph Delafield's Company,
 1 Regiment Militia.
 (War of 1812.)
 Appears on
 Company Muster Roll
 for Sept. 15, 1812, 1812
 Roll dated at New Utrecht, L.I.
 22 Oct., 1812.
 Date of appointment } or enlistment, } 181 .
 Date of appointment or } 15 Sept., 1812 .
 commencement of service, }
 To what time engaged or } expiration of service, } 181 .
 To what time engaged } or enlisted, } 181 .
 Present or absent Absent.
 To what period paid , 181 .
 Remarks and alterations since last muster:
 Absent without leave since
 2 Oct. 1812
 + See roll.
 Collings
 (569) Copyist.



Excepts from *Memoirs of My Own Times*
by
General James Wilkinson
In Three Volumes
Vol I
Philadelphia
1816



Page 550 of Volume One begins

-”My judgment deceives me, and I am badly advised, if the following documents will not support the case of the illegal execution of a soldier, sanctioned by President Madison, after due deliberation, in the face of the constitution and the laws.”
- Following this are the transcriptions of letters regarding the legality of the court martial convened by Colonel Simon Larned of the Greenbush Cantonment.

Letter from the Adjutant General To Colonel Simon Larned Informing of Illegal Court Martial

- Washington, 29th Jan. 1814.
- Sir, I am instructed by the Secretary of War, to inform you, that the **proceedings of a court martial held at Greenbush, by your order of the 21st July, 1813,** and before which were tried Lieutenants Cobb, Blanvelt and Curtis, **are illegal, as you had no authority at that time to initiate general courts martial.** I am further directed to say, that you are hereby authorised* to order a general court martial, for the trial of the above named officers, the proceedings of which must be transmitted to the secretary of war for his decision. **
- I have the honour to be, Very respectfully, Sir,
- Your obedient servant,
- J. B. WALBACK, Adjutant General.
- « Colonel Simon Larned, Greenbush."
- • The authority vesting officers with powers to institute general courts martial, is delegated by law in the 65th article of the rules and articles for the government of the armies of the United States, and is not submitted to the President ; therefore, this authorization was an usurpation.

Excerpts from Colonel Larned's Reply to the Adjutant General, Dated February 9, 1814.

- Sir, " I had the honour to receive your favour of the 29th January by which I am informed the proceedings of the court martial ordered by me in July last, are illegal; a doctrine new to me; and as far as I have erred, it has been in pursuing the practice of my superiors.* While General Chandler was at Burlington, Colonel Pike (after wards General Pike) at Pittsburgh, each ordered general courts martial, approved or disapproved the sentences, and carried them into execution. General Dearborn at the same time commanded at Greenbush. Some officers above my rank, passed through Albany in the course of the summer, without my knowledge, none giving me any orders. When General Hampton passed through Albany, on his way to the frontiers, he refused to give me orders on any subject. This being a kind of deposit for all sick, invalids, rogues, and deserters, the latter increased upon me to an alarming degree, I appointed general courts martial, approved and disapproved their sentences, and carried them into effect, one man only was shot for repeated desertion, according to the sentence of the court. In all this, I not only conceived I was doing my duty but a service to my country. It seems, however, I misjudged.

....." It would be useless for me to attempt the enumeration of evils, resulting from an unqualified decision, of the illegality of those general courts martial which were ordered by me. Those under sentence must be released; and I left to make my peace with them. " The charge of murder for the one who was shot, would be in active circulation immediately....."



Letter from the Adjutant General Informing Colonel Larned, the President Decided the Court Martial Was Legal.

- Adjutant Inspector General's Office, Washington, 9th March, 1814.
- Your letter of the 9th February has been received, and submitted to the secretary of war, by whose direction, I inform you, that the **President has decided, that ,Greenbush be considered a separate command, so far as relates to courts martial hitherto held.** This decision, you will observe, is a confirmation of the several sentences of general courts martial, held under your orders, and will render unnecessary, any further proceedings in the cases of Lieutenants Cobb, Blauvelt and others.
- I am, Sir,
- Your obedient servant,
- J. B. WALBACH, Adjutant General.
- Colonel S. Larned, Commanding. Greenbush, State of New York

The Investigation of the Legality of the Court Martial Continued with a Letter from Major Asa B. Sizer Naming Pvt. Samuel Helms

- Troy, March 2, 1815.
- Sir, In reply to your letter of this date, I have the honour to inform you that I was a member of a general court martial of which Lieutenant-colonel Young was president, ordered at Greenbush by Colonel Larned, in July, 1813, at which **Lieutenant Cobb** of the light artillery, and **Lieutenant Blauvelt** of the 13th infantry, were dismissed the service. **Lieutenant Curtis** of the 15th infantry, suspended for a limited time, and **Samuel Helms, a private (of what regiment I do not recollect) sentenced to be shot for desertion**, all of which sentences were approved of by the commanding officer, and carried into execution. Not having papers with me by which I can refresh my memory, I am unable to give you the precise dates, but I know the sentences were approved and promulgated immediately after the proceedings were handed over by the judge advocate. **Helms was executed in the latter part of August or the first part of September following. I was officer of the day, and superintended his execution.** By the same court many other soldiers were tried and sentenced to various punishments, but my recollection is not sufficient to enable me to particularise them.
- I have the honour to be, Sir,
- Your most obedient servant,
- ASA B. SIZER, Major, 29th Infantry.
- **Major-general Wilkinson." The facts are before the people, who will decide on their merits, and if Lieutenants Cobb and Blauvelt were not illegally dishonoured, and the life of Samuel Helms unlawfully taken, then I shall acknowledge my error, and make every reparation to the accused.**

The President's Decision Caused Lt. James D. Cobb to Fight His Sentence All the Way to the United States Congress

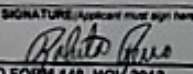
- On December 23, 1829, a report by Mr. Drayton, from the Committee on Military Affairs reported, in part....."From the foregoing statement, it results, that the only question existing in the memorialist's (Lt. James D. Cobb) case, is, whether an approval by the President of a sentence of a Court illegally constituted, and destitute of jurisdiction, can render that sentence valid. The Committee are unanimously of the opinion that it could not.
- The Congress ruled the court martial and the sentences **ILLEGAL**



Document received from
the US Congressional
Archives

A Mission to Change Pvt. Samuel Helms' Military Record From Desertion to AWOL

- In March of 2015 I filled out an Application for Correction of Military Record Under the Provisions of Title 10, U. S. Code, Section 1552 (DD Form 149, NOV 2012)

APPLICATION FOR CORRECTION OF MILITARY RECORD UNDER THE PROVISIONS OF TITLE 10, U.S. CODE, SECTION 1552 (Please read instructions on reverse side BEFORE completing this application.)		OMB No. 0704-0003 OMB Approval expires Oct 31, 2014
The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing this collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Executive Secretariat, Information Management Division, 4801 Mark Center Drive, Suite 0004, Alexandria, VA 22304-3100 (2030-2700/2740/2701). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.		
PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE ABOVE ORGANIZATION. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON THE BACK OF THIS PAGE.		
PRIVACY ACT STATEMENT AUTHORITY: 10 U.S.C. 1552, and E.O. 9397, as amended (SSN). PRINCIPAL PURPOSE(S): To initiate an application for correction of military record. The form is used by Board members for review of pertinent information in making a determination of relief through correction of a military record. Completed forms are covered by correction of military records SCRs maintained by each of the Services or the Defense Finance and Accounting Service.		ROUTINE USE(S): The DoD Blanket Routine Uses found at: http://privacy.defense.gov/blanket_uses.shtml apply to this collection. DISCLOSURE: Voluntary; however, failure to provide requested information may result in a denial of your application. An applicant's SSN is used to retrieve these records and links to the member's official military personnel file and pay record.
1. APPLICANT DATA (The person whose record you are requesting to be corrected)		
a. BRANCH OF SERVICE (if one) <input checked="" type="checkbox"/> ARMY <input type="checkbox"/> NAVY <input type="checkbox"/> AIR FORCE <input type="checkbox"/> MARINE CORPS <input type="checkbox"/> COAST GUARD b. NAME (Print - Last, First, Middle Initial) Helms, Samuel		c. PRESENT OR LATEST PAY GRADE Pvt
2. PRESENT STATUS WITH RESPECT TO THE ARMED SERVICES (Active Duty, Reserve, National Guard, Retired, Discharged, Deceased) Deceased		4. DATE OF DISCHARGE OR RELEASE FROM ACTIVE DUTY (YYYYMMDD) August/September 1813
3. TYPE OF DISCHARGE (if by court-martial, state the type of court) Executed		
5. I REQUEST THE FOLLOWING ERROR OR INJUSTICE IN THE RECORD BE CORRECTED: (Entry required) The charge of desertion removed from Pvt. Samuel Helms' record		
6. I BELIEVE THE RECORD TO BE IN ERROR OR UNJUST FOR THE FOLLOWING REASONS: (Entry required) The court martial that tried and sentenced was legal.		
7. ORGANIZATION AND APPROXIMATE DATE (YYYYMMDD) AT THE TIME THE ALLEGED ERROR OR INJUSTICE IN THE RECORD OCCURRED (Entry required) July 21, 1813		
8. DISCOVERY OF ALLEGED ERROR OR INJUSTICE		
a. DATE OF DISCOVERY (YYYYMMDD) b. IF MORE THAN THREE YEARS SINCE THE ALLEGED ERROR OR INJUSTICE WAS DISCOVERED, STATE WHY THE BOARD SHOULD FIND IT IN THE INTEREST OF JUSTICE TO CONSIDER THE APPLICATION. To finally give justice to a soldier illegally tried and sentenced. Clear his record so his descendants can honor him.		
9. IN SUPPORT OF THIS APPLICATION, I SUBMIT AS EVIDENCE THE FOLLOWING ATTACHED DOCUMENTS: (If military documents or medical records are pertinent to your case, please send copies. If Veterans Affairs records are pertinent, give regional office location and claim number.) First hand account of execution in which contains intent to return, letters stating illegality of court martial, US Congress records overturning President's declaration, muster roll, letters expressing disapproval of execution.		
10. I DESIRE TO APPEAR BEFORE THE BOARD IN WASHINGTON, D.C. (At no expense to the Government) (X one)		
YES, THE BOARD WILL DETERMINE IF WARRANTED. <input checked="" type="checkbox"/> NO, CONSIDER BY APPLICATION BASED ON RECORDS AND EVIDENCE.		
11. a. COUNSEL (If any) NAME (Last, First, Middle Initial) and ADDRESS (Include ZIP Code)		
b. TELEPHONE (Include Area Code) c. E-MAIL ADDRESS d. FAX NUMBER (Include Area Code)		
12. APPLICANT MUST SIGN IN ITEM 15 BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name (print) and relationship by marking one box below.		
the name (print) Roberts Reno and relationship by marking one box below.		
SPOUSE <input type="checkbox"/> WIDOW <input type="checkbox"/> WIDOWER <input type="checkbox"/> NEXT OF KIN <input type="checkbox"/> LEGAL REPRESENTATIVE <input checked="" type="checkbox"/> OTHER (Specify)		
13. a. COMPLETE CURRENT ADDRESS (Include ZIP Code) OF APPLICANT OR PERSON IN ITEM 11 ABOVE (Forward notification of all changes of address.)		
b. TELEPHONE (Include Area Code) 518-485-7938 c. E-MAIL ADDRESS Ms58Edsel@aol.com d. FAX NUMBER (Include Area Code)		
14. I MAKE THE FOREGOING STATEMENTS, AS PART OF MY CLAIM, WITH FULL KNOWLEDGE OF THE PENALTIES INVOLVED FOR WILLFULLY MAKING A FALSE STATEMENT OR CLAIM. (U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)		
15. SIGNATURE (Applicant must sign here) 		16. DATE SIGNED (YYYYMMDD) 03/10/2015
DD FORM 149, NOV 2012		PREVIOUS EDITION IS OBSOLETE

This is the reply I received from Colonel Jeffrey C. Lieb stating I must submit documents such as a Death Certificate, Marriage Certificate, etc. I cannot supply these forms as they did not exist in 1813. Plus next of kin is required for soldiers who cannot file (deceased).

This is basically the same response I have received with each correspondence stating I cannot supply these forms nor have I been able to locate next of kin yet.





DEPARTMENT OF THE ARMY
ARMY REVIEW BOARDS AGENCY
251 18TH STREET SOUTH, SUITE 305
ARLINGTON, VA 22202-3531

June 19, 2015

Case Management Division/pdl
AR20150004693, Helms (Deceased), Samuel

Ms. Roberta Reno
2 Spring Place
Hampton Manor
Rensselaer, NY 12144

Dear Ms. Reno:

This is in response to your application to the Army Board for Correction of Military Records (ABCMR), dated March 10, 2015, wherein you request a correction to a military record on behalf of a service member.

Title 10 U.S. Code § 1552, requires each applicant to sign their application unless that individual is deceased or determined by proper medical authority to be incompetent. In either case, proper proof must accompany the application. This proof consists of birth, death, or marriage certificate showing relationship to the military member or a power of attorney from the service member to the individual signing the application. In your case, this documentation was not included with your application.

Ms. Reno, our agency understands you are a historian, and it is very difficult to locate a living relative for a service member that served hundreds of years ago. We appreciate the hard work, research, and dedication you have done. Please note, there is legislative proposal currently with Congress to amend Title 10 U.S. Code § 1552 to allow exceptions to the rule above; however, this legislation is in the early consideration phase.

In view of the foregoing, your application is returned without action and without prejudice.

Sincerely,

Jeffrey C. Lieb
Colonel, US Army
Chief, Case Management Division

Enclosure

Bill HR 6308

Introduced in the United States House of Representatives July 3rd
Referred to the House Committee on Armed Services and is now before the
Sub-committee on Military Personnel

The Historical Record Exemption Act of 2018

Background

Members of the military sometimes find that their military records may inaccurately represent their service, either due to error or injustice. After the discovery of an alleged error or injustice, individuals or their representatives may seek to correct them. These military record corrections include status changes from dishonorable or other than honorable discharge to honorable discharge. Currently, military records can only be changed either by the individual themselves, someone who has been granted power of attorney, next of kin, or DoD Service Secretaries, who may initiate Board of Correction for Military Records (BCMR) applications.

Unfortunately, this excludes historians and other interested parties that seek to correct historic military records, where next of kin might be difficult or impossible to locate.

For example, in December 2016, the Town Historian of East Greenbush, New York reached out to the Army Review Boards Agency. She had been researching the 1813 court martial and execution of Private Samuel Helms. She believed that Private Helms was wrongfully charged with desertion and therefore was illegally tried. After seeking to correct his military record, she was informed that her request could not be evaluated because she was not related to him. She is unable to track down any living descendant of the soldier who was tried over 200 years ago.

1. Even when a living descendant can be identified, it can be extremely difficult, and often impossible, to provide the necessary documentation to make changes to historic military records. Surviving family must prove their relationship to the service member through documentation such as birth, marriage, and death certificates. Unfortunately, many of these forms of legal proof did not exist 175 years ago.

What will the bill do?

The Historical Record Exemption Act of 2018 would allow the Secretary of the military department concerned or a person the Secretary concerned determines has a vested interest in the military record file a request for the correction more than 175 years after the date of the creation of the military record.

Text of HR 6308

- H. R. 6308
- To authorize the Secretary of a military department to correct a military record at the request of an interested party more than 175 years after the date of the creation of the military record, and for other purposes.
- IN THE HOUSE OF REPRESENTATIVES
- July 3, 2018
- Mr. Tonko introduced the following bill; which was referred to the Committee on Armed Services
- A BILL
- To authorize the Secretary of a military department to correct a military record at the request of an interested party more than 175 years after the date of the creation of the military record, and for other purposes.
- Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
- SECTION 1. Short title.
- This Act may be cited as the “Historical Record Exemption Act of 2018”.
- SEC. 2. Correction of historical military records.
- Section 1552(b) of title 10, United States Code, is amended—
- (1) by striking “No” and inserting “(1) Subject to paragraph (2), no”; and
- (2) by adding at the end the following new paragraph:
- “(2) A correction may be made under subsection (a)(1) if the Secretary concerned or a person the Secretary concerned determines has a vested interest in the military record files a request for the correction more than 175 years after the date of the creation of the military record.”.

Justice for Pvt. Samuel Helms to be continued.....

