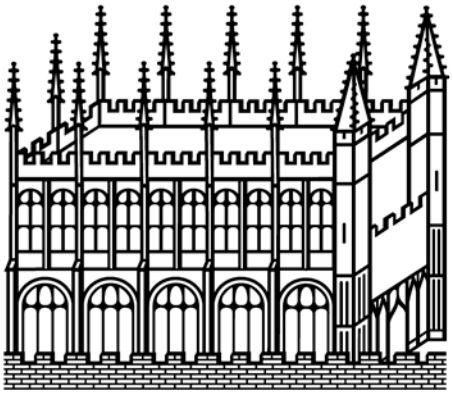

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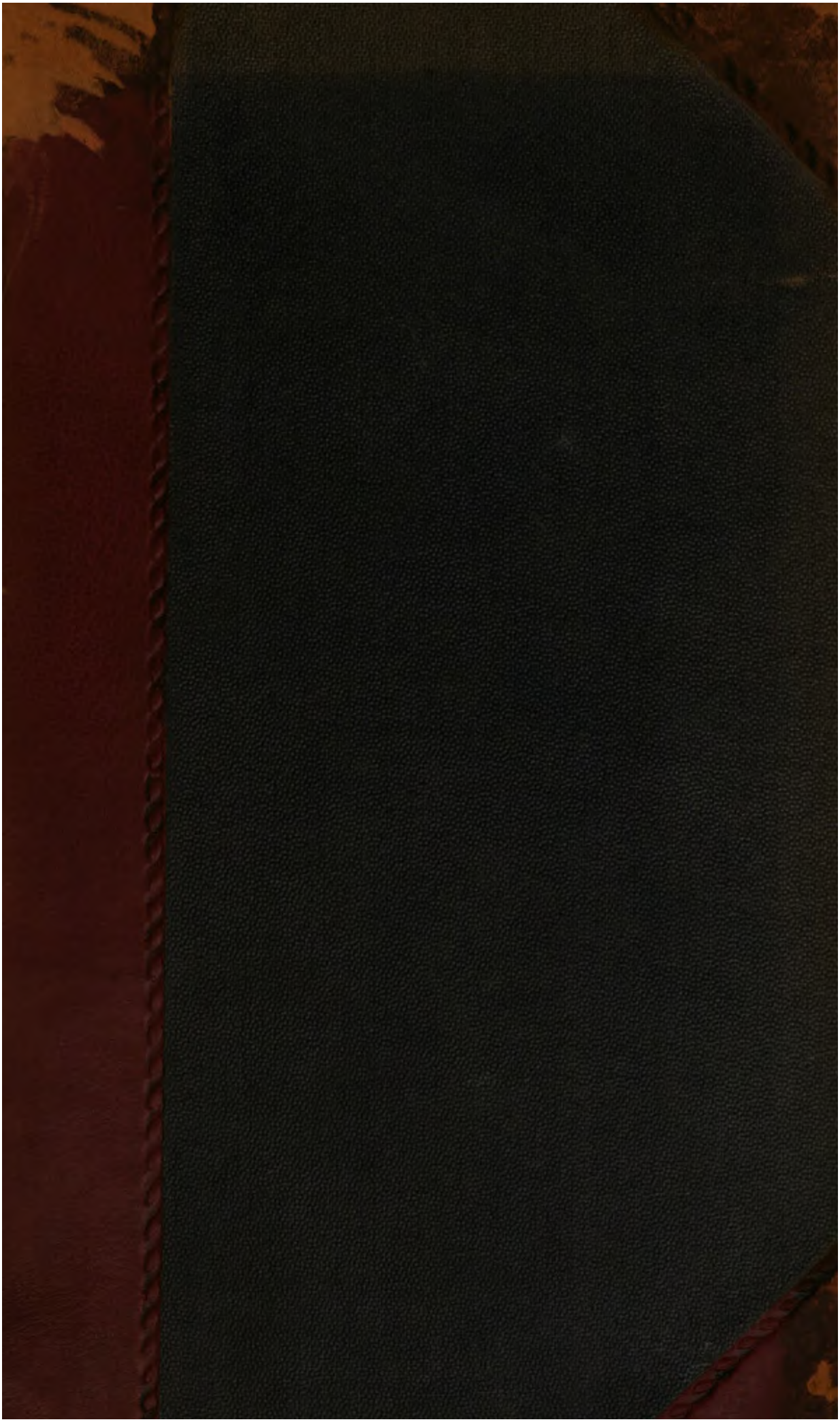

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DEFENCE

OF

BRIGADIER GENERAL HULL.

DEFENCE

OF

BRIGADIER GENERAL W. HULL.

Delivered before the General Court Martial, of which Major General Dearborn was President, at Albany, March, 1814.

WITH AN

ADDRESS TO THE CITIZENS OF THE UNITED STATES.

WRITTEN BY HIMSELF.

Copied from the original Manuscript, and published by his authority.

To which are prefixed,

THE CHARGES AGAINST BRIGADIER GENERAL HULL, AS SPECIFIED BY THE GOVERNMENT.

BOSTON:

PUBLISHED BY WELLS AND LILLY.

Court-Street.

.....

1814.

233. 9. 115.

DISTRICT OF MASSACHUSETTS, TO WIT:

District Clerk's Office.

BE it remembered, that on the ninth day of June, anno domini eighteen hundred and fourteen, and in the thirty-eighth year of the independence of the United States of America, William Wells and Robert Lilly of the said District, have deposited in this office the title of a book, the right whereof they claim as Proprietors, in the words following, to wit:

Defence of Brigadier General William Hull. Delivered before the general Court-Martial, of which Maj. Gen. Dearborn was President, at Albany, March, one thousand eight hundred and fourteen. With an Address to the Citizens of the United States. Written by himself. Copied from the original manuscript, and published by his authority. To which are prefixed, the Charges against General Hull, as specified by the Government.

In conformity to the Act of the Congress of the United States, intitled "An Act for the Encouragement of Learning, by securing the copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the times therein mentioned;" and also to an Act intitled, "An Act supplementary to an Act, intitled, an Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies during the times therein mentioned; and extending the Benefits thereof to the Arts of Designing, Engraving and Etching Historical, and other Prints."

WILLIAM S. SHAW, *Clerk of the District of Massachusetts.*

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ADDRESS

TO THE

CITIZENS OF THE UNITED STATES.

Fellow-Citizens,

In submitting my defence to your consideration, and in making my appeal to your judgment, I have only to ask you to examine with candour, and decide with impartiality. I am sensible the fate of one man is of little consequence, compared to the fate of a nation.

If the sacrifice of me, however innocent, could make atonement for the sins of others, redeem our misfortunes, and restore the national character, it might be justified by precedents in other countries, and perhaps, as a patriot, I ought to be satisfied. It is unfortunate for the administration, and for the other generals who have conducted our armies, that it cannot have the effect. In countries, where the people are hardly permitted to

think, and their only prerogative is obedience, innocence is no shield; and because there can be no inquiry, the most elevated merit is often brought to the scaffold for the most meritorious conduct. But in a country where justice is the basis of its government, where the people are enlightened by science, and understand both their rights and duties, such outrages on justice cannot with impunity be committed.

Under a government thus constituted, when public misfortunes occur, those to whom the administration is intrusted are in the first instance responsible. They well know the public vengeance will fall on them, unless they avert it, and too often have no other means of justification, but in the condemnation of others. The power they possess, and the patronage they can give, afford great facilities in effecting the object. It is however our happy lot, that, when this power and patronage are unjustly exercised, a remedy exists; and that remedy is an appeal to your justice. To that justice I now appeal, in the confident expectation, that you will be satisfied of the purity and rectitude of my conduct, that you will reverse the unjust sentence which has been pronounced against me, and restore me to that honourable standing in society, which had been acquired by the services of nearly half a century.

I regret that it is not in my power, in this communication, to present to you all the testimony and documents, on which my defence is grounded, and which had any relation to the trial. The proceedings of the Court Martial are deposited in the office of the Secretary of the Department of War, and by law I am entitled to a copy of them. As soon as they are obtained, they will be published in a separate number.

I believe we are all conscious of the crimes of which we are guilty. When I might have sheltered myself in the enemy's territory, as a prisoner of war, I ask you to account for my return to my own country on any other principle, than a consciousness of my innocence, and that I had faithfully done my duty? What other principle could have induced me to have requested an investigation of my conduct? When a Court Martial was ordered to assemble at Philadelphia for my trial, why did I promptly repair there, without any restraint, and without even having been divested of my sword? After the trial was postponed by the government, without any request on my part; and having before that time received notice of my exchange from the government, why did I remain more than a year in the country, without any restraint or confinement?

When the new court was ordered for my trial at Albany, and I was furnished with the volume of capital charges, exhibited against me by the government, why did I voluntarily appear before the Court, and submit to my trial, when it was in my power so easily to have avoided it? Why, after the trial, did I return alone and unattended to my residence in Massachusetts, and there wait the sentence of the Court Martial?—I do presume your answer must be, that this conduct only could have resulted from a consciousness of innocence, and a full conviction that I had done my duty.

I now ask you to consider the conduct of the government, in relation to me. Did *they* believe the black catalogue of charges they exhibited against me was true? If they did, could the administration have been justified in leaving me at perfect liberty, for more than a year after I had been furnished with a copy of these charges? Did the members of the Court Martial, who pronounced the sentence, in their consciences believe I was guilty, and deserved punishment? If they did, how can their conduct in directing me, the day after the sentence was concluded, to return to my home in Massachusetts, without any kind of restraint, and without requiring any kind of security for my appearance to receive the execution of the sentence? This direction was given the

day after the sentence was passed. Can it be presumed there was a *concert* between the President and the Court, and he had directed the Court to adopt this measure previous to the sentence? Is it possible *it was understood* between the President and the Court, previous to the conclusion of the trial, what the sentence should be, and that it should be remitted by him? And if both the President and the Court had believed in their consciences, I had been guilty of the crimes with which I was charged, could it be reconciled to their duty to leave me in a situation, where I could so easily avoid the punishment which was to have been inflicted?

I have stated these facts, and made these observations, to convince you, that my whole conduct has manifested, I myself was conscious of no crime, and it was not the intention either of the President, or the Court Martial, that I should receive the punishment which had been ordered.

I now ask you, my fellow-citizens, to decide for yourselves what have been the motives of the administration in this business? With respect to two thirds of the members of the Court Martial, they have ordered a sentence, which in their consciences they believed ought not to be executed.

The Court Martial, in justification of their conduct, in recommending me to the mercy of the President, can appeal to no precedent, not even the proceedings in the trial of admiral Byng. After the Court had found him guilty of a particular charge, there was nothing left to their discretion. The articles of war provided, that the punishment should be death. In my case the articles of war provided death, or such other punishment as the Court Martial should think proper to order. Why then did not the Court order such a punishment as they believed ought to have been inflicted?

From these facts and observations, I do think the motives of the administration must be apparent. And indeed, I presume it will not be in your power to reconcile the conduct of the President of the United States, and the conduct of the Court Martial, without believing there was a *concert* and *understanding* how this business was to be conducted.

With respect to the lenity of the Court, I informed them I did not ask it; and I requested no other mercy from them, than the mercy of a *decision;* that they would decide on my case, and keep me no longer in suspense.

In regard to the pardon of the President, I had no opportunity of requesting it, because it was

granted, before I had any knowledge of the sentence. Ingratitude, I hope, is no part of my character. But I do submit to your consideration, whether I ought to feel grateful to him, when the National Intelligencer, a paper published at his door, and under his auspices, in giving an account of the trial and announcing the sentence, states, that the punishment is more protracted and terrible, in consequence of a remission of the sentence. If his object was to *aggravate* and *increase* the punishment, it cannot be called an act of *mercy*.

There are two very important facts, relating to my situation, as commander of the north-western army, not noticed in my defence. One, the armistice agreed to by general Dearborn, from which my army was expressly excluded. The other, the President's message to Congress, the first session after the capitulation. With regard to the first, the following are the facts. This was an arrangement of Sir George Prevost, for the sole purpose of employing all his forces against the army I commanded. Having received information that the orders in council had been repealed, on the second day of August, eighteen hundred and twelve, he despatched colonel Baynes, his adjutant general, to the head-quarters of general Dearborn, at Greenbush, near Albany, with an authority to conclude an armistice—on the ninth of

August it was concluded between him and general Dearborn, and my army was excluded.

Immediately after the departure of colonel Baynes on his mission, major general Sheafe of the British army was ordered to lake Erie, with a large part of the British force from Montreal, to be placed under the command of general Brock. From the nature of the transaction, it is certain, that general Brock was made acquainted with these circumstances, and informed that he might, with the most perfect safety to his posts at Kingston, York, forts George and Erie, march his whole force against my army, which had invaded the province of which he was governour and commander in chief. Calculating the distances, and the celerity with which the British commanders convey important information, there was full time for the purpose. Of this important arrangement, in which the army I commanded had so much interest, I never received any information from general Dearborn. That general Brock took his whole force to Malden, from fort George and its vicinity, excepting a few men to take care of the cannon and stores, is certain; and that general Sheafe arrived from Montreal with the reinforcements, immediately after general Brock's departure from Fort George, is likewise a fact well known. That at this time, on the ninth of

August, a cessation of hostilities had been concluded, which extended from fort Erie, on the east part of lake Erie, to Quebec. In my next number, I shall produce documents to prove the facts I have here stated. They are, however, all so public, and so well known, that I am fully authorized in stating them without the documents. That on the day of the capitulation, the sixteenth of August, general Brock well knew that a cessation of hostilities below had taken place, is certain, because on that day he gave me information of it, and that the orders in council had been repealed, and observed, he hoped it would be the foundation of a peace. It is likewise well known, this measure was disapproved by the President, and principally on account of the effect it would have on my army. When general Dearborn was ordered by the President to make diversions on the enemy's posts below me, and ought to have been co-operating with me with all his forces, he was sitting at his ease at Greenbush, and making arrangements, which were one great cause of the destruction of my army. And yet this same general Dearborn was appointed the president of the Court Martial which has condemned me for the misfortune, which his own misconduct had been a great cause in producing. In sacrificing me, he has undoubtedly made some atonement for his own faults, in the opinion of the administration,

and may be permitted to remain in the possession of his nominal rank, and in the enjoyment of his emoluments, in the degraded and disgraceful situation, to which he has submitted for more than a year. Thus has general Dearborn, by adopting a measure, which brought the principal part of the enemy's force against my army, exhibited his profound skill in military operations, and his talents and qualifications as commander in chief of the American army.

I shall now proceed to consider that part of the President's message, of the fourth of November, eighteen hundred and twelve, which developes the objects of my unfortunate campaign. It is in the following words.

"Previous to its declaration, [the declaration "of war] it was deemed proper, as a measure of "precaution and forecast, that a considerable "force should be placed in the *Michigan* terri- "tory, with a general view to its security, and in "the event of war, to such operations in the up- "permost *Canada*, as would intercept the hostile "influence of *Great Britain* over the savages, "*obtain the command of the lake on which that* "*part of Canada borders*, and maintain co-ope- "rating relations with such forces as might be "most conveniently employed against other parts.

"Our expectation of *gaining the command of* "*the lakes, by the invasion of Canada from De-* "*troit*, having been disappointed, measures were "instantly taken to provide on them a *naval* "*force* superiour to that of the enemy."

The objects of the force intrusted to my command, are here particularly stated. They are stated by the first magistrate to the legislature of the nation. This is a document of the highest authority, and must be considered as conclusive evidence, that these were the objects, for which the expedition was ordered, and which the President expected would have been accomplished. If it was the expectation of the President, that with the few militia under my command, I should have obtained possession of the lake, it is unaccountable, that it never was communicated to me. All my instructions from the Department of War were laid before the Court Martial; and there was not the least intimation of the kind. Indeed I never had the most distant idea, that this expectation was entertained, until it was disclosed in this message. Both in my repeated written communications, and in frequent conversations with the President and Secretary of the Department of War, I had urged the necessity of a navy on lake Erie, superiour to the British, in the event of war with Great Britain. I well knew at that

time, they had a strong naval force on the lake, perfectly manned and prepared in every respect for offensive or defensive war. The United States had not a single vessel or gun boat on those waters. All they had was an old unarmed transport vessel, repairing on the stocks, and which was not launched until near a month after the declaration of war.

There were but two modes of taking possession of the lake; one, by taking or destroying the enemy's naval force; the other, by taking possession of all their posts and harbours, both on the main land and islands, an extent of coast more than three hundred miles. I am confident no one will believe it was possible for me, either to have taken or destroyed the British fleet then on the lake, with the means I possessed. The force, under my command, was totally inadequate to have effected it in the other way, especially after the fall of Michilimackinac, and all the northern nations of savages were in hostility against me. Although I still entertain the same opinion I gave to the government, before the declaration of war, that a navy on lake Erie was essentially necessary; yet, I now believe, had an adequate force been sent to the Michigan territory, and sufficient forces had been ordered to have taken possession of forts George and Erie at the same time, and

these armies had co-operated, the whole of that part of the province of Upper Canada, which borders on lake Erie, might have been in our possession in the campaign of eighteen hundred and twelve, with all the enemy's harbours on the borders of the lake, by which means the naval force would have been destroyed, or must have surrendered at the approach of winter.

This idea I suggested to the Secretary of War, in my memoir of the sixth of March, eighteen hundred and twelve, provided the object was the reduction of the Canadas, and it was the intention of the government, contrary to every opinion I had given, not to build a navy on lake Erie. I suggested it as the only possible mode, and at the same time pointed out all the difficulties which would attend it. On the sixth of March, at the time when this memoir was presented, I had no command in the army, and had uniformly declined to accept a military appointment, although I had been strongly solicited. Being then the governour of the Michigan territory, it was my duty to induce the government to provide means for its safety.

About the eleventh of April, after I had been appointed to the command of the north-western army, unsolicited, and even undesired on my

part; I then presented to the President, through the medium of the Department of War, another communication, in which I represented in the strongest and most explicit terms, the necessity of our having a naval force superiour to the enemy on the lakes; and that without it, and unless the army I was to command was strengthened by additions to its numbers, and unless it were followed by detachments to keep open the communication, and insure its supplies from Ohio; and unless it was supported by co-operations on other quarters, my army could not be able to maintain itself at Detroit, much less carry on offensive operations in the enemy's country.

After these communications, and under the circumstances in which I was placed, I ask you, my fellow-citizens, whether I had any reason to believe it to be the expectation of the government, that I should have obtained the command of the lakes? But in this I was mistaken. It really appears, that it was, because the President says, in the Message I have quoted, "Our expectation of "gaining the command of the lakes by the inva- "sion of Canada from Detroit having been disap- "pointed, measures were instantly taken to pro- "vide on them a naval force, superiour to that of "the enemy."

The other object was, "to maintain co-operat-
"ing relations with such forces, as might be most
"conveniently employed against other parts."

I opened a road of two hundred miles through a savage wilderness, invaded the enemy's country, remained a month in the possession of it, waiting for co-operating relations, until I was informed I should receive none; and until general Dearborn, instead of co-operations, agreed to a cessation of hostilities, which afforded the enemy an opportunity of concentrating his whole force against my little army.

By the documents of the government, it thus appears, that these were the objects of my expedition; and because I disappointed the expectations of the administration in not obtaining the command of the lakes, with the few Ohio militia I commanded, and did not maintain co-operating relations with other forces, when there were none to co-operate with me, I have been condemned.

I do expect, my fellow-citizens, when you become acquainted with the true history of my case, you will reverse the unjust sentence which has been pronounced against me. I am now perfectly supported by a consciousness of having done my duty in the most faithful manner, and my only

desire is, to convince you and posterity of the purity of my motives, and the correctness of my conduct. Under this support I am tranquil and happy. Had I pursued any other course, I should want the consciousness which I now feel, and in sincerity I can adopt the language of Pope,

" One self approving hour whole years outweighs
" Of stupid starers and of loud huzzas;
" And more true joy Marcellus exiled feels,
" Than Cæsar with a senate at his heels."

WILLIAM HULL.

NEWTON, (Mass.) June 1st, 1814.

CHARGES.

At a general Court Martial (ordered by the President of the United States) convened at Albany, in the State of New-York, on the third day of January one thousand eight hundred and fourteen, and continued by adjournments to the twenty-fifth day of March following, brigadier general William Hull, of the army of the United States, was tried on the following charges and specifications, viz:

CHARGE I.

TREASON against the United States, between the ninth of April and the seventeenth of August, eighteen hundred and twelve.

FIRST SPECIFICATION. In this: That on the first day of July, in the year eighteen hundred and twelve, before that time and ever since, an open and public war was, and is yet carried on and prosecuted by and between the United States of America and their territories, and the united kingdom of Great-Britain and Ireland, and the dependencies thereof: and that William Hull, a brigadier general in the army of the said United States, a citizen of the said United States, owing allegiance to the said United States, and late commander of the north-western army of the said United States, well knowing the premises, and traitorously and unlawfully designing and contriving to send and convey intelligence to the said enemies of the said United States, touching a declaration of war by the said United States, against the said united kingdom of Great-Britain and Ireland, and the dependencies thereof; and, also, touching the expedition on which the said north-western army under his com-

Wilkes Wood's

mand as aforesaid was employed; and, also, touching the numbers, state and condition of the said north-western army; in prosecution of the said traitorous and unlawful design, on the said first day of July, in the year aforesaid, at the rapids of the river Miami of the lake, in the territory of Michigan, the said William Hull (then and there being a brigadier general in the army of the United States, and being then and there commander of the said north-western army as aforesaid,) did traitorously hire or cause to be hired an unarmed vessel, with the pretended purpose of transporting therein certain sick soldiers, and the principal part of the hospital stores belonging to the said north-western army, from the said rapids of the river Miami of the lake to Detroit, in the said territory of Michigan, but in truth, traitorously contriving and intending that the said unarmed vessel, together with all persons, papers, and things put on board thereof, should be captured by the enemies of the said United States, on the passage of the said unarmed vessel from the said rapids of the river of the Miami of the lake to Detroit aforesaid, in the territory of Michigan aforesaid: and that the said William Hull, in further prosecution of his said traitorous and unlawful design and contrivance, (being then and there a brigadier general in the army of the United States as aforesaid, and being then and there commander of the said north-western army as aforesaid,) did then and there traitorously put, or traitorously cause to be put on board of the said unarmed vessel, a trunk containing (among other things) the official correspondence of the Secretary of the Department of War and the said brigadier general William Hull, as well touching the expedition on which the said north-western army under his command as aforesaid, was then employed, as touching a declaration of war by the said United States against the said united kingdom of Great-Britain and Ireland, and the dependencies thereof, and also, certain official muster-rolls, reports, and returns, of the numbers,

state and condition of the said north-western army, under his command as aforesaid: and that afterwards, to wit: on the second day of July, in the year aforesaid, the said vessel, so as aforesaid traitorously hired or traitorously caused to be hired, by the said brigadier general William Hull, on its passage from the said rapids of the river Miami of the lake to Detroit aforesaid, was captured by the said enemies of the United States, having on board thereof, at the time of the said capture, the said trunk containing the said official correspondence, as well touching the said expedition, as the said declaration of war, and the said official muster-rolls, reports and returns, of the numbers, state, and condition of the said north-western army (together with certain sick soldiers, and the principal part of the hospital stores belonging to the said north-western army,) and by means of the said capture, and in fulfilment of the said traitorous and unlawful design, contrivance, and intendment of the said brigadier general William Hull, the said official correspondence, as well touching the said expedition, as the said declaration of war, and the said official muster-rolls, reports and returns, of the numbers, state and condition of the said north-western army, (together with certain sick soldiers, and the principal part of the hospital stores of the said north-western army,) came to the possession, knowledge and use of the enemies of the said United States; giving information and intelligence to the enemies of the said United States, as well touching the said expedition, as touching the said declaration of war, and, also, touching the numbers, state and condition of the said north-western army of the said United States, then and there under the command of the said brigadier general William Hull as aforesaid; whereby the said William Hull, on the first day of July, in the year aforesaid, at the rapids of the river Miami of the lake aforesaid, in the territory of Michigan aforesaid, (being then and there a brigadier general in the army

of the United States, and being then and there commander of the said north-western army as aforesaid, and being then and there a citizen of the said United States, owing allegiance to the said United States,) did then and there traitorously and unlawfully hold correspondence with, and give intelligence to the enemy, and did then and there traitorously, by the means aforesaid, adhere to the enemies of the said United States, giving them aid and comfort.

SECOND SPECIFICATION. And also, in this: That afterwards and during the said war, so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said united kingdom of Great-Britain and Ireland, and the dependencies thereof, the said north-western army of the said United States, under the command of the said brigadier general William Hull as aforesaid, having entered the said British province of Upper Canada, and having established a military post at or near Sandwich, in the said British province of Upper Canada, which it was the duty of the said brigadier general William Hull to maintain and defend, in order that the said war might and should be advantageously carried on and prosecuted on behalf of the said United States, and more especially that a certain British fort called Malden, otherwise called Amherstburgh, in the said British province of Upper Canada, occupied by the enemies of the said United States, might and should be advantageously attacked and taken by the said north-western army of the said United States, under the command of the said brigadier general William Hull as aforesaid, yet the said William Hull, (a brigadier general in the army of the United States, a citizen of the said United States, owing allegiance to the said United States, and commander of the said north-western army of the said United States as aforesaid,) well knowing the premises, on the eighth day of August, in the year one thousand eight hundred and twelve, at Sandwich

aforesaid, in the British province of Upper Canada aforesaid, did then and there traitorously and unlawfully conspire and combine with certain enemies of the said United States, (whose names are unknown) to quit and abandon to the enemies of the said United States, the said military post established by the said north-western army of the said United States, at or near Sandwich aforesaid, in the British province of Upper Canada aforesaid, and to prevent the said British fort called Malden, otherwise called Amherstburgh, from being attacked and reduced, or an attempt being made to reduce the same, by the said north-western army of the said United States, under the command of the said brigadier general William Hull as aforesaid; and that the said William Hull, (then and there being a brigadier general in the army of the said United States, then and there being commander of the said north-western army of the said United States, and then and there being a citizen of the said United States, owing allegiance to the said United States) in prosecution of the said traitorous conspiracy and combination, did then and there traitorously quit and abandon, and did then and there traitorously cause to be quitted and abandoned, the said military post established by the said north-western army of the said United states as aforesaid, at or near Sandwich as aforesaid, in the British province of Upper Canada aforesaid, and did then and there traitorously neglect and omit to make the proper preparations for attacking and reducing, or attempting to reduce the said British fort called Malden, otherwise called Amherstburgh, but on the contrary, did then and there traitorously prevent the same from being attacked and reduced, and an attempt being made to reduce the same by the said north-western army of the said United States, then and there under his command as aforesaid: and, in further prosecution of the said traitorous conspiracy and combination, did then and there traitorously march, withdraw and remove, and traitorously

order to be marched, withdrawn and removed, the main body of the said north-western army of the said United States, from the said military post established by the said north-western army of the said United States, at or near Sandwich aforesaid, to a place out of the said British province of Upper Canada, to wit; to Detroit aforesaid, in the territory of Michigan aforesaid; whereby the said William Hull, on the said eighth day of August, in the year one thousand eight hundred and twelve aforesaid, at Sandwich aforesaid, in the said British province of Upper Canada, (being then and there a brigadier general in the army of the said United States, and being then and there commander of the said north-western army of the said United States, and being then and there a citizen of the said United States, owing allegiance to the said United States,) did then and there traitorously conspire, combine, and hold correspondence with the enemies of the said United States, and did then and there traitorously and shamefully quit and abandon, and traitorously and shamefully cause to be quitted and abandoned the said military post, so as aforesaid established by the said north-western army of the said United States, at or near Sandwich aforesaid, in the British province of Upper Canada aforesaid, and did then and there traitorously neglect and omit to make the proper preparations for attacking and reducing, or attempting to reduce the said fort called Malden, otherwise called Amherstburgh, in the said British province of Upper Canada, but did then and there traitorously prevent the said British fort called Malden, otherwise called Amherstburgh, in the said British province of Upper Canada, from being attacked and reduced, or an attempt being made to reduce the same by the said north-western army of the United States, under his command as aforesaid, and by the means aforesaid, did then and there traitorously adhere to the enemies of the said United States, giving them aid and comfort.

THIRD SPECIFICATION. And also, in this:—That afterwards and during the said war, so as aforesaid carried on and prosecuted, by and between the said United States of America and their territories, and the said united kingdom of Great-Britain and Ireland, and the dependencies thereof, to wit: on the sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, at Detroit, in the Michigan territory aforesaid, the said William Hull was then and there a citizen of said United States, owing allegiance to the said United States, and was then and there a brigadier general in the army of the said United States, and was then and there commander of the north-western army of the said United States, and was then and there commander of a certain fort, called Fort Detroit, and belonging to the said United States, erected at or near the town of Detroit, upon a bank of the river Detroit, in the said territory of Michigan; the works whereof, and the guns and gun-carriages belonging thereto, then were, and long before had been decayed, dilapidated, and out of repair. And that the said brigadier general William Hull, then and there did traitorously conspire and combine with certain enemies of the said United States, (whose names are unknown,) then and there traitorously and shamefully to surrender and abandon to the enemies of the said United States, the said fort, called Fort Detroit, belonging to the said United States as aforesaid, and then and there under the command of the said brigadier general William Hull as aforesaid, with all the troops, regulars as well as militia, then and there under the command of the said brigadier general Hull as aforesaid, and all the public stores and arms, and all public documents, including every thing else of a public nature, appertaining to the said fort, called Fort Detroit, and to the said north-western army of the said United States, under the command of the said brigadier general William Hull as aforesaid. And that in prosecution of the said trai-

torous conspiracy and combination, the said brigadier general William Hull did then and there wilfully and traitorously neglect and omit to repair and strengthen the works of the said fort, called Fort Detroit, then and there under his command as aforesaid, and to put the same (together with the said guns and gun-carriages belonging thereto) into a proper state and condition for resistance and defence against the approaches, attacks, and assaults of the enemies of the said United States. And did then and there wilfully and traitorously neglect and omit to fortify the places and passes at and near to the said fort, called Fort Detroit, by and through which the troops of the enemies of the said United States might then and there reasonably be expected to approach, and did approach the said fort, called Fort Detroit, for the purpose of attacking and subduing the same. And did then and there traitorously neglect and omit to oppose, resist, repel and defeat, and to attempt to repel and defeat the troops of the enemies of the said United States, in their hostile preparations, and approach to and towards the said fort, called Fort Detroit, for the purpose of attacking and subduing the same. And that in further prosecution and completion of the said traitorous conspiracy and combination, the said brigadier general William Hull did then and there traitorously and shamefully abandon and surrender the said fort, called Fort Detroit, then and there under his command as aforesaid, (which it was his duty then and there to maintain and defend,) together with all the troops, regulars as well as militia, then and there in the said fort, called Fort Detroit, then and there belonging to the said United States as aforesaid, and then and there under his command as aforesaid, and all the public stores and arms, and public documents, including every thing else of a public nature, in and appertaining to the said fort, called Fort Detroit, and to the said north-western army of the said United States, then and there under his command as afore-

said, unto the enemies of the said United States, to wit:—to the British forces then and there under the command of major general Brock; whereby the said William Hull, on the said sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, at Detroit aforesaid, in the territory of Michigan aforesaid, (being then and there a citizen of the said United States, owing allegiance to the said United States, and being then and there a brigadier general in the army of the said United States, and being then and there commander of the said north-western army of the said United States, and being then and there commander of the said fort, called Fort Detroit, belonging to the said United States as aforesaid,) did then and there traitorously and shamefully abandon and surrender the said fort, called Fort Detroit, to the enemies of the said United States, to wit:—to the said British troops under the command of major general Brock as aforesaid; and did then and there by the means aforesaid, traitorously adhere to the enemies of the said United States, giving them aid and comfort.

CHARGE II.

Cowardice at and in the neighbourhood of Detroit, between the first day of July and the seventeenth day of August, in the year one thousand eight hundred and twelve.

First specification. In this:—That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, the said brigadier general William Hull, commanding the north-western army of the said United States as aforesaid, having entered the said British province of Upper Canada, in prosecution of the said war on behalf of the said United States, and being there in pos-

session of the town of Sandwich and the adjacent country, in the name and on behalf of the said United States, and having declared and avowed the object and intention of attacking and subduing the British fort called Malden, otherwise called Amherstburgh, in the said British province of Upper Canada, and, generally, of maintaining and enlarging his position and possession in the said British province of Upper Canada, on the eighth day of August, in the year one thousand eight hundred and twelve, at Sandwich, aforesaid, in the British province of Upper Canada aforesaid, did then and there misbehave himself before the enemy, and shamefully manifest an undue fear and apprehension of danger by a course of conduct and conversation evincing personal alarm, agitation of mind, and privation of judgment, by abandoning the said object and design of attacking the said British fort called Malden, otherwise called Amherstburgh, by quitting the position and possession taken at the town of Sandwich and in the adjacent country, in the British province of Upper Canada as aforesaid, and by retreating abruptly from and out of the said British province of Upper Canada to Detroit, in the territory of Michigan aforesaid, without any cause for so doing, arising from the superiour numbers, state and condition of the British forces which were then and there opposed to the said army of the said United States, under the command of the said brigadier general William Hull, and without any other just and sufficient cause whatsoever; whereby the officers and soldiers of said north-western army of the said United States, then and there under the command of the said brigadier general William Hull, were induced to lose and did lose all confidence in the personal courage and the military capacity of their said commander; the inhabitants of the said British province of Upper Canada were taught to distrust the power and professions of the invading general; a shade was cast upon the reputation of the American arms; and the service

of the said United States, in the prosecution of the said war, suffered great detriment and disadvantage.

SECOND SPECIFICATION. And, also, in this:—That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, to wit: on the fifteenth day of August, in the year one thousand eight hundred and twelve aforesaid, the enemy having raised certain batteries on the banks of the said river Detroit, in the said British province of Upper Canada, opposite the said fort Detroit, and certain American posts and batteries established and erected near the said fort Detroit, in the said territory of Michigan, and a cannonade being commenced from the said batteries of the enemy against and upon the said fort of Detroit and the said American posts and batteries established and erected near thereto, in the said territory of Michigan, the said brigadier general William Hull, on the said fifteenth day of August, in the year one thousand eight hundred and twelve aforesaid, at Detroit aforesaid, in the territory of Michigan aforesaid, (being then and there commander of the said fort Detroit, and of the said American posts and batteries established and erected near thereto, in the said territory of Michigan, and being then and there commander of the said north-western army of the said United States,) did then and there during the continuance of the cannonade aforesaid, shamefully misbehave himself before the enemy, and manifest great fear and apprehension of personal danger by a course of conduct and conversation evincing personal alarm, agitation of mind, and privation of judgment, and particularly by various timid and cowardly actions and expressions then and there used and uttered in the presence of the officers and soldiers then and there belonging to the said north-western army of the said United States, and then and there under his command as aforesaid, as well in

the public street of the town of Detroit, as in places adjacent to the said fort of Detroit, and the said American posts and batteries established and erected near thereto, in the said territory of Michigan; whereby a fatal encouragement was afforded for the hostile enterprises of the enemy, a pernicious example (calculated to intimidate and to disorganize) was given to the American troops, and the service of the United States in the prosecution of the said war, was exposed to hazard, shame, and disappointment.

THIRD SPECIFICATION. And, also, in this:—That during the said war, carried on, and prosecuted by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, to wit: on the sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, the British forces under the command of major general Brock having crossed the said river Detroit, having landed at a place called Spring Wells, otherwise called Spring Hill, in the said territory of Michigan; and having thence marched towards the said fort of Detroit, with the design to attack the same, the said brigadier general Hull, on the said sixteenth day of August, one thousand eight hundred and twelve aforesaid, at Detroit aforesaid, in the said territory of Michigan, (being then and there commander of the said fort of Detroit, and being then and there commander of the said north-western army of the said United States) did then and there, during all the time of the enemy's crossing the said river Detroit as aforesaid, landing at the said Spring Wells, otherwise called Spring Hill as aforesaid, and marching towards the said fort Detroit as aforesaid, with the design to attack the same as aforesaid, shamefully misbehave himself before the enemy, and manifest great fear and apprehension of personal danger, by various timid and cowardly actions and expressions then and there used and utterred in the presence of the officers and sol-

diers belonging to the said north-western army of the said United States, then and there under his command as aforesaid; by avoiding all personal danger from making an attempt to prevent the enemy's crossing the said river to Detroit and landing at the said Spring Wells, otherwise called Spring Hill; avoiding all personal danger from reconnoitering and encountering the enemy in battle on the said march of the enemy towards the said fort of Detroit; by hastily sending flags of truce to the enemy with overtures for a capitulation; by anxiously withdrawing his person from the American troops in the open field to a place of comparative safety, within the walls of the said fort Detroit; by an irresolute fluctuation of orders, sometimes inconsistent with each other, and sometimes incoherent in themselves; by forbidding the American artillery to fire on the army on the said march of the enemy towards the said fort Detroit; by calling the American troops from the field, and crowding them in the said fort Detroit, while the enemy was on the said march towards the said fort Detroit; by a precipitate declaration to the enemy, that he surrendered the said fort Detroit, and the said north-western army of the said United States, before terms of capitulation were signed or considered, or even suggested; and generally by a course of conduct and conversation evincing personal fear, agitation of mind, and privation of judgment; whereby the said fort of Detroit, and the said north-western army of the United States, then and there under the command of the said brigadier general William Hull, were then and there rendered an easy and certain conquest to the approaching enemy; the officers and soldiers of a gallant army (compelled by the obligations of military law to obey the orders of their commander) were exposed to unmerited mortification and reproach; and the service of the said United States, in the prosecution of the said war, suffered great detriment and discredit.

FOURTH SPECIFICATION. And, also, in this:—That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, to wit: on the sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, at Detroit aforesaid, in the territory of Michigan aforesaid, the said fort Detroit being then and there well garrisoned and supplied with cannon, ammunition, and provisions; the said north-western army of the said United States being then and there well supplied with arms, ammunition, and provisions; and the officers and soldiers thereof being then and there in high spirits, and eager to meet and encounter the enemy in battle; and a fine train of artillery being then and there subject to the orders and disposal of the said brigadier general Hull, for the purposes of defence or attack, yet the said brigadier general William Hull (then and there being commander of the said fort Detroit, and of the said north-western army of the said United States) acting upon the impulse of personal fear and apprehension, and contemplating, as the means of personal safety, a shameful abandonment and surrender of the said fort Detroit, and of the said north-western army of the said United States under his command as aforesaid, to the approaching enemy, did then and there shamefully misbehave himself before the enemy, and did then and there enter into a disgraceful capitulation with the enemy, containing no consolatory stipulation that the said garrison and army should march out of the said fort of Detroit with the honours of war; no just and humane stipulation for the security and protection of such of the inhabitants of the said British province of Upper Canada as had accepted the said brigadier general William Hull's invitation to join the American standard; nor any reasonable stipulation for an opportunity of reporting to the Secretary for the Department of War the circum-

stances of so unexpected and so important an event; and did then and there shamefully abandon, surrender, and give up the said fort of Detroit, together with all the troops, regulars as well as militia, then and there under his command as aforesaid, and all the public stores and arms, and all the public documents, including every thing else of a public nature belonging to the said fort of Detroit, and to the said north-western army of the said United States, then and there under his command as aforesaid, to the said approaching enemy, to wit:—to the British forces under the command of major general Brock, without any cause for so doing, arising from the superiour numbers, state and condition of the said British forces; or from the actual want, or just expectation of sudden want, of arms, ammunition, and provisions for the said fort Detroit, and the said north-western army of the said United States, and without any other adequate cause whatsoever; whereby the territorial sovereignty, rights, and property of the said United States were shamefully ceded to the enemy; a brave and patriotic army was wantonly sacrificed by the personal fears of the commander; and the service of the said United States, in the prosecution of the said war, suffered a great and afflicting loss.

CHARGE III.

Neglect of duty and unofficerlike conduct, while commanding a separate army, between the ninth of April and the seventeenth of August, in the year one thousand eight hundred and twelve.

First specification. In this:—That before and during the said war, carried on and prosecuted as aforesaid, by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, the said brigadier general William Hull, being duly appointed to command the north-

western army of the said United States, did actually take and assume the command of the said army, on or about the twenty-fifth day of May, in the year one thousand eight hundred and twelve, at or near Dayton, in the state of Ohio, and did thence constantly continue in the actual command of said army, as well on the march from Dayton aforesaid, to Detroit, in the territory of Michigan, and at Detroit aforesaid, as in the British province of Upper Canada, until his capitulation with the enemy, and the consequent surrender of fort Detroit, in the said Michigan territory, with all the troops, regulars, and militia under his command, to the British forces under the command of major general Brock, to wit:— at Detroit aforesaid, in the territory of Michigan aforesaid, on the sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid. And that the said brigadier general William Hull, unmindful of the important trust reposed in him, during all the time aforesaid, and as well on the march of the said army from Dayton aforesaid, to Detroit aforesaid, and at Detroit aforesaid, as in the British province of Upper Canada aforesaid, was guilty of neglect of duty and of unofficerlike conduct, by neglecting and omitting, with sufficient care and frequency, to inspect, train, exercise, review, and order, and to cause to be inspected, trained, exercised, reviewed, and ordered, the said army under his command as aforesaid; and, also, by neglecting and omitting, in due form and time, to prepare an order of battle, and to make the same known to the said army on the march from Dayton aforesaid, to Detroit aforesaid, in the Michigan territory aforesaid, whereby the discipline of the troops under the command of the said brigadier general William Hull as aforesaid, was in danger of being relaxed; their comfort was liable to be impaired; their confidence in the military skill and dispositions of their commander was diminished; and the said army was exposed to the hazard

of disorder and defeat in the event of an attack being made thereon by the enemy.

SECOND SPECIFICATION. And, also, in this:—That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America, and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, to wit; on or about the first day of July, in the year one thousand eight hundred and twelve aforesaid, at the rapids of the river Miami, in the territory of Michigan, the said brigadier general William Hull, then and there commanding the said north-western army of the said United States, on the march thereof from Dayton, in the state of Ohio, to Detroit aforesaid, in the territory of Michigan aforesaid, then and there having sufficient cause to know or to believe, that war was then existing between the said United States and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, was guilty of neglect of duty and of unofficerlike conduct, by then and there hiring or causing to be hired an unarmed vessel, and putting or causing to be put on board thereof, to be transported by water-passage from the said rapids of the river Miami of the lake, to Detroit aforesaid, (the said brigadier general William Hull having sufficient cause to know or to believe the imminent danger of capture by the enemy to which the said unarmed vessel on the passage aforesaid, would be exposed) certain sick soldiers, and a great part of the hospital stores belonging to the said army, together with a trunk, containing (among other things) the papers hereinafter mentioned, which it was the duty of the said brigadier general William Hull most carefully to keep and preserve from the knowledge and view of the enemy, that is to say: the official correspondence of the Secretary of the Department of War and the said brigadier general William Hull, as well touching the expedition on which the said north-

western army under his command as aforesaid, was then employed, as touching a declaration of war by the said United States of America against the said united kingdom of Great Britain and Ireland, and the dependencies thereof; and, also, certain other official muster rolls, reports, and returns of the numbers, state, and condition of the said army under his command as aforesaid. And the said unarmed vessel on the passage aforesaid, from the said rapids of the river Miami of the lake towards Detroit aforesaid, afterwards to wit: on or about the second day of July in the year one thousand eight hundred and twelve aforesaid, was captured by the enemy, having on board thereof, at the time of such capture, the said sick soldiers, the said hospital stores, and the said trunk, containing the said official correspondence, and, also, the said muster rolls, reports, and returns of the numbers, state, and condition of the said army; whereby the said sick soldiers were made prisoners of war; the said hospital stores were lost to the United States; and the said official correspondence, and the said muster rolls, reports, and returns of the numbers, state, and condition of the said army came to the possession, knowledge, and use of the enemies of the United States, to the great injury of the said United States.

THIRD SPECIFICATION. And, also, in this:—That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, the said brigadier general William Hull, having arrived with the said north-western army of the said United States under his command as aforesaid, at Detroit, in the territory of Michigan, on the seventh day of July, in the year one thousand eight hundred and twelve aforesaid, and having the possession and command of said fort of Detroit, from that time, constantly, until the abandonment and sur-

render thereof to the British forces under the command of major general Brock, on the sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, and finding upon his said arrival at Detroit aforesaid, that the works of the said fort Detroit were greatly damaged and dilapidated, and that the guns and gun-carriages belonging to said fort of Detroit were also damaged and out of repair; and, moreover, well knowing the importance of the said fort Detroit to the service of the said United States in the operation of the said war, and that the same (together with the said guns and gun-carriages) should be put and kept in proper order and repair, was guilty of neglect of duty by neglecting and omitting, during all the time of his possession and command as aforesaid, in proper and sufficient manner to repair and strengthen, or cause to be repaired and strengthened, the works of the said fort Detroit, by neglecting and omitting, in a proper and sufficient manner, and in due time for the service of the said United States, to repair or cause to be repaired, the said guns and gun-carriages, and generally by neglecting and omitting to put, or cause to be put the said fort of Detroit in a proper state and condition for resistance and defence in the event of an invasion and attack by the enemy; whereby the said fort Detroit was left an easy conquest to the enemy; the said guns and gun-carriages, being afterwards required for the service of the said United States, in the British province of Upper Canada, were still found unfit for transportation and use; great time was consumed in preparing and fitting them for the said service; and the operations of the war were fatally obstructed and suspended.

FOURTH SPECIFICATION. And, also, in this:—That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the de-

pendencies thereof, the said brigadier general William Hull, declaring and avowing an intention and design, with the said north-western army of the said United States under his command as aforesaid, to invade and enter the British province of Upper Canada, to invest and attack the British fort called Malden, otherwise called Amherstburgh, in the said British province, and to maintain and enlarge his position and possessions in the said British province, and well knowing that expedition, resolution, and energy were indispensible to the prosecution and accomplishment of such intention and design, and having arrived at Detroit aforesaid, in the territory of Michigan aforesaid, on the seventh day of July, in the year one thousand eight hundred and twelve aforesaid, and having invaded the said British province of Upper Canada, on the twelfth day of July, in the year aforesaid, and therein taken possession of the town of Sandwich aforesaid, and having with the main body of his said army evacuated the said British province of Upper Canada on the eighth day of August, in the year aforesaid, was guilty of neglect of duty and unofficerlike conduct, by not seasonably repairing, fitting, and transporting, or causing to be repaired, fitted and transported, the guns and gun-carriages which were necessary to the operation of the war in the said British province of Upper Canada, by an useless and injurious waste of time and opportunity at Sandwich aforesaid, in the said British province of Upper Canada, without making an attempt to reduce the said British fort called Malden, otherwise called Amherstburgh, by an unnecessary consumption of time, in projects to conciliate the British inhabitants of the said British province of Upper Canada, and the neighbouring Indians, without resorting to a more effectual display of a military power, capacity, and disposition to maintain the acquisitions of conquest, and to perform the promises of protection; by postponing in the first instance, and by abandoning

in the next, an investment and attack upon the said British fort called Malden, otherwise called Amherstburgh, and by finally evacuating the said British province of Upper Canada, without having provided effectually, in any respect, for the safety of the inhabitants thereof who had accepted the said brigadier general William Hull's invitation to join the American standard, and without having, in any degree, accomplished the said intention and design of the said brigadier general William Hull, so as aforesaid declared and avowed upon the invasion of the said British province as aforesaid; whereby an opportunity was afforded to the enemy to bring into suspicion and contempt the power and the conduct of the American commander; to collect and combine the British forces; to seduce, intimidate, and engage the Indians; to awe into submission the wavering inhabitants of the said British province of Upper Canada; to reinforce the said British fort called Malden, otherwise called Amherstburgh; and to prepare for investing and attacking the said fort of Detroit, in the said territory of Michigan; while on the other hand, the said army of the said United States, under the command of the said brigadier general William Hull, as aforesaid, diminishing in effective numbers in consequence of sickness and other casualties; the officers and soldiers naturally became dissatisfied and disgusted with a scene of such inactivity, irresolution, and procrastination; the hope of support and co-operation, as well from the Indians as from the British inhabitants of the said British province of Upper Canada, was destroyed, and the general ardour of the troops, in the prosecution of the war, insensibly abated.

FIFTH SPECIFICATION. And, also, in this:—That during the continuance of the said war, carried on and prosecuted as aforesaid, by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland,

and the dependencies thereof, the said brigadier general William Hull, with the said north-western army of the said United States under his command as aforesaid, arrived at Detroit aforesaid, in the territory of Michigan aforesaid, to wit: on the seventh day of July, in the year one thousand eight hundred and twelve aforesaid; that with the said army under his command as aforesaid, he entered and invaded the said British province of Upper Canada, to wit: on the twelfth day of July, in the year aforesaid; that with the main body of the said army under his command as aforesaid, he evacuated the said British province of Upper Canada on the eighth day of August, in the year aforesaid, thence returning to Detroit aforesaid, in the said territory of Michigan, and that he abandoned, surrendered, and gave up the said fort Detroit, with all the troops, regulars as well as militia, under his command as aforesaid, to the British forces under the command of major general Brock, to wit: on the sixteenth day of August, in the year aforesaid. And that during all the movements aforesaid, and during all the time aforesaid, to wit; from the said seventh day of July, in the year one thousand eight hundred and twelve aforesaid, to and including the said sixteenth day of August, in the year aforesaid, it was of high importance to the security and supply of the said fort Detroit, and the said army of the said United States, under the command of the said brigadier general William Hull as aforesaid, that a free and open communication should be had and preserved between the said fort of Detroit and the said army of the said United States, under the command of the said brigadier general William Hull as aforesaid, and a certain American settlement and military post made and established at the river Raisin, in the said territory of Michigan; and that the said brigadier general William Hull, well knowing the premises, but unmindful of the trust reposed in him, was guilty of neglect of duty and unofficerlike conduct, by suf-

fering the enemy to interrupt and cut off the said communication between the said fort of Detroit and the said army of the said United States under his command as aforesaid, and the said American settlement and military post made and established at the river Raisin aforesaid, in the territory of Michigan aforesaid, to wit; on the first day of August, in the year one thousand eight hundred and twelve aforesaid, or on some other day of the said month of August, or on some day of the preceding month of July, in the year aforesaid; also, by afterwards, to wit: on the fourth day of August, in the year aforesaid, detaching major Thomas B. Van Horn of colonel James Findlay's regiment of Ohio volunteers, with an inadequate force, (the said brigadier general William Hull having sufficient cause for knowing or believing the same to be inadequate) to attempt again to open the said communication between the said fort Detroit, and the said army of the said United States, under the command of the said brigadier general William Hull as aforesaid, and the said American settlement and military post on said river Raisin, in the territory of Michigan aforesaid; also, by afterwards, to wit: on the eighth day of August, in the year aforesaid, detaching lieutenant colonel James Miller, of the fifth regiment of United States infantry, with the number or about the number of five hundred men to attempt again to open the said communication between the said fort of Detroit and the said army of the said United States, under the command of the said brigadier general William Hull, and the said American settlement and military post at the said river Raisin, in the territory of Michigan aforesaid, and neglecting to furnish and forward, or cause to be furnished and forwarded, the said last mentioned detachment at or near Brownstown, in the said territory of Michigan, on its march aforesaid, upon the service aforesaid, an adequate supply of provisions, (the said brigadier general William Hull having sufficient cause to know or to believe that the

said last mentioned detachment was at or near Brownstown aforesaid, on its march aforesaid, upon the service aforesaid, in want of provisions, and that they could not prosecute and accomplish the said service unless an adequate supply of provisions was furnished and forwarded to them at or near Brownstown aforesaid;) and, also, by afterwards, to wit: on the fourteenth day of August, in the year aforesaid, detaching colonel Duncan Mac Arthur, colonel of a regiment of Ohio volunteers, and colonel Lewis Cass, colonel of another regiment of Ohio volunteers, with the number or about the number of four hundred men, as well to attempt again to open the said communication between the said fort Detroit and the said army of the said United States, under the command of the said brigadier general William Hull as aforesaid, and the said American settlement and military post at the river Raisin aforesaid, in the territory of Michigan aforesaid, as to escort certain provisions from the said American settlement and military post to Detroit aforesaid, without issuing, furnishing, and forwarding, or causing to be issued, furnished and forwarded to the said last mentioned detachment an adequate supply of provisions for the service on which they were employed as aforesaid, (the said brigadier general William Hull having sufficient cause to know or to believe that the said last mentioned detachment was in want of a further supply of provisions upon the service aforesaid, and that they could not prosecute and accomplish the said service unless such further supply was issued, furnished, and forwarded to them;) whereby the said detachment, under the said major Thomas B. Van Horn, being encountered by the enemy with a superiour force, was defeated and returned to Detroit aforesaid, without accomplishing the service on which they were employed as aforesaid; the said detachment under the said lieutenant colonel James Miller, having achieved a signal victory over the enemy during the march on

the service aforesaid, at or near Brownstown aforesaid, were nevertheless compelled, from the want of an adequate supply of provisions, to abandon the service on which they were employed as aforesaid, and to return to Detroit aforesaid; the said detachment under the said colonel Duncan Mac Arthur and the said colonel Lewis Cass, from want of an adequate supply of provisions were unable to prosecute and accomplish the service on which they were employed as aforesaid, and were returning to Detroit aforesaid, at the time of the abandonment and surrender of the said fort Detroit and the said army of the United States to the British forces under the command of major general Brock as aforesaid: and finally, the said communication between the said fort Detroit and the said army of the United States, under the command of the said brigadier general William Hull, and the said American settlement and military post at the said river Raisin, in the territory of Michigan aforesaid, by reasons of the said neglects and omissions of the said brigadier general William Hull as aforesaid, was, and remained interrupted and totally cut off by the enemy, to wit: from the said first day of August, in the year aforesaid, or from some other day in the said month of August, or in the preceding month of July, in the year aforesaid, to and including the said sixteenth day of August, in the year aforesaid.

SIXTH SPECIFICATION. And, also, in this:—That during the continuance of the said war, so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, the said brigadier general William Hull, with the said north-western army of the said United States, under his command as aforesaid, having invaded and entered the said British province of Upper Canada as aforesaid, and having declared and avowed an intention and design of invest-

ing and attacking the said British fort called Malden, otherwise called Amherstburgh, in the said British province of Upper Canada, and a detachment of the said army under his command as aforesaid, led by the said colonel Lewis Cass, and the said lieutenant colonel James Miller, having attacked and repulsed the enemy, and seized upon a certain bridge over the river, called the river Aux Canard, on the rout from Sandwich, in the said British province of Upper Canada, to the said British fort called Malden, otherwise called Amherstburgh, and an opportunity having thereby been offered for an immediate investment and attack upon the said British fort called Malden, otherwise called Amherstburgh; yet the said brigadier general William Hull, well knowing the premises, and unmindful of the trust reposed in him, to wit: on or about the eighteenth day of July, in the year one thousand eight hundred and twelve aforesaid, at Sandwich aforesaid, in the British province of Upper Canada aforesaid, was guilty of neglect of duty and unofficerlike conduct, by neglecting and omitting to advance with the said army under his command as aforesaid, to maintain or attempt to maintain the possession of the said bridge over the said river, called the river Aux Canard, and by neglecting and omitting to proceed to the immediate investment and attack of the said British fort called Malden, otherwise called Amherstburgh, in the said British province of Upper Canada, whereby the advantage of acquiring and keeping possession of the said bridge over the said river called the river Aux Canard, as aforesaid, was improvidently lost, and the prospect of a successful investment and attack upon the said British fort called Malden, otherwise called Amherstburgh, speedily vanished.

SEVENTH SPECIFICATION. And, also, in this:— That during the continuance of the said war, so as aforesaid carried on and prosecuted by and between

the said United States of America and their territories, and the said united kingdom of Great Britain and Ireland, and the dependencies thereof, the said brigadier general William Hull, with the said north-western army of the said United States under his command as aforesaid, having evacuated the said British province of Upper Canada, returning thence to Detroit aforesaid, in the territory of Michigan aforesaid, the enemy having afterwards taken possession of the bank of the said river Detroit, opposite to Detroit aforesaid, and thereon erected batteries wherewith to attack and annoy as well the said fort of Detroit, and the American posts and batteries erected and established near thereto, as the town of Detroit in the said territory of Michigan; the enemy having also manifested an intention and design to invade and enter the said territory of Michigan, and to invest and attack the said fort Detroit; and the enemy having also afterwards, in pursuance of such intention and design, landed at a place called Spring Wells, otherwise called Spring Hill, in the neighbourhood of the said fort Detroit, in the territory of Michigan aforesaid; yet the said brigadier general William Hull, well knowing the premises, and unmindful of the trust reposed in him, to wit: from the eleventh day of August, to and including the sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, was guilty of neglect of duty and unofficerlike conduct, by neglecting and omitting to prevent, and to attempt to prevent the enemy from erecting the said batteries on the bank of the said river Detroit, opposite to the said fort of Detroit, aforesaid: by neglecting and omitting to fortify the landing place at the said Spring Wells, otherwise called Spring Hill, in the territory of Michigan aforesaid; and by neglecting and omitting to annoy and attack the enemy on and after his landing at Spring Wells, otherwise called Spring Hill aforesaid, in the territory of Michigan aforesaid; whereby the enemy was enabled securely to erect

the said batteries on the bank of the said river Detroit as aforesaid, for attacking and annoying as well the said fort of Detroit, and the American posts and batteries erected and established near thereto, as the said town of Detroit, to invade the said territory of Michigan without opposition or loss, and to approach the said fort Detroit with the air and confidence of a triumph.

A. J. DALLAS,
Judge Advocate.

DEFENCE

OF

BRIGADIER GENERAL HULL.

Mr. President,
And Gentlemen of the Court-Martial,

I HAVE too long, and too severely felt the effects of public prejudice, excited by unfounded reports and groundless clamours, not to rejoice, that the time has arrived, when I may speak in my own vindication, before an *impartial* and *honourable* tribunal.

The charges, upon which you are now to decide, have been propagated through the union, with a *zeal* and *industry*, to which my age, my character, and my former services, have been in vain opposed.

My reputation and feelings have been the sport of every one, who either from malicious, selfish, or political motives, chose to traduce me. The time has been, when no one would have dared to couple dishonour with my name; when my heart has exulted to find myself mentioned among those who deserved well of their country. But since my efforts to serve

her, have been unsuccessful, how have I been tortured with cruel and unfounded accusations!—Even conscious innocence has not always given me fortitude to bear with this injustice, unmoved.—Knowing the integrity of my own motives, and how zealously I have sought to discharge my duty to the public, my heart has often swollen with indignation, when I have seen the indefatigable pains that have been taken, by repetitions of the foulest calumnies, to excite, and keep alive, prejudices against me. Your own knowledge, Gentlemen, of what has been passing in the world, will convince you, that this is not declamation; but I shall shew you, in the course of my defence, that men, from whose profession and whose rank it was not to be expected, have been parties in this injustice.

At length, however, the time I have so anxiously desired has arrived, when my conduct must be tested by *evidence*, instead of the misrepresentations of my enemies. And I *do* feel a confidence, that when you have pronounced upon that evidence, I may appeal to your judgment to refute the clamours which have been raised against me.

I cannot but think, Mr. President, that the charges against me are exhibited in a form, hitherto unprecedented in proceedings of this nature. It was not to be expected, that in a court where the accused, whatever may be his infirmities or incapacity to attend to his own defence, is not permitted to have the benefit of counsel, the charges would be envelop-

ed in such a profusion of words, that it is difficult for one, not accustomed to the technical forms of pleadings in the civil courts, to understand them, and be so complicated by repetitions, that it is still more difficult to reduce them to any order or analysis.

It is extremely important, however, that the Court should ascertain, and always bear in mind, precisely of what I am accused. The course of proceeding, which has been adopted by the Court, renders this the more necessary, as testimony has been given, which certainly cannot be applied to any of the specifications. The Court have thought proper to admit it, with an intimation, that any further objection, which I might offer to its propriety or relevancy, when I arrived at this stage of my defence, would be considered.—In submission to this decision of the Court, I have omitted to make objections on this ground in several instances.

I shall not attempt to offer an argument to the Court, to prove the injustice of making one charge against a person, and trying and convicting him on another. I did however understand from what passed, when I first submitted to the Court an objection of this nature, that an opinion was entertained by some of the members, that though the testimony might not apply to any specification, yet if the fact intended to be proved would come under either of the general charges, the testimony would be proper. If this were so, then there would be no use in the specifications. Indeed

they would be worse than useless, for they would only mislead the accused, and induce him to prepare against one accusation, when he might be tried on another. The impropriety of admitting any thing under the general charge, for which there is not a specification, I think will appear manifest. Let us suppose, that a general charge is made of unofficer-like conduct, and the only specification, insulting a superiour. Suppose that under this general charge and specification, testimony should be offered of absence without leave. This would also be unofficer-like conduct, and therefore would come under the general charge. But would it not be the *height* of injustice to try the accused for absenting himself; a crime of which the charges gave him no notice. I trust the Court will see the validity of the objection I am considering, and that they will be careful to give no weight to any part of the testimony, which does not apply to *some* one of the specifications.

I do not think it necessary to occupy the time of the Court with a recapitulation of the charges, nor shall I exhaust your patience by attempting, in my defence, to follow the *volume* on your table, through all its reiterations. It will be found, for the most part, to be a repetition of the same facts, displayed in the jargon of special pleading, with an incongruous dissemination of such opprobrious epithets, as fancy might furnish to heighten the imputation of guilt. I shall endeavour to arrange and consider the accusations in such order as will enable me to bring my de-

fence into some compass, and to be the better understood—I shall particularly notice the charges, which the Judge Advocate, in his opening, mentioned as those which he expected would be substantiated, and I shall not omit to make my defence against every accusation, which there has been the least testimony to support.

The cardinal accusations, if I may be permitted so to express myself, are founded upon an alleged delay at Sandwich, the retreat from Canada, and the surrender at Detroit. If I can satisfy the Court that these acts were in themselves necessary, or justifiable, it will then remain for me to answer such of the accusations as relate to the manner in which these acts were done, and to answer also some charges not immediately connected with these transactions. This course will embrace the whole of my defence. Of this latter description, is the first specification, under the charge of treason, which relates to the vessel sent from the Miami, I shall therefore give this a separate consideration; and as it stands first and highest in the black catalogue of the crimes which are imputed to me, and is repeated in other specifications, I shall, in the first instance, ask the attention of the Court to this subject.

I have already protested against the authority of this Court to decide upon this charge, because treason is a crime of which a court martial has no cognizance. Their power is confined to such military

crimes as are specified in the articles of war. And their jurisdiction is so limited, not only by the constitution, but by the very articles themselves. I have thought it my duty, in the most solemn manner, to make and insist on this protest, for the sake of repelling a dangerous example, and not as it respects myself, or the case now under your consideration; for my only desire is to acquit myself of the criminal acts and motives which have been so wantonly imputed to me. If I cannot succeed in this, I am indifferent as to the names by which the crimes may be called, and if I do not acquit myself of the other charges, which are the most wounding to the feelings of a soldier, I am equally indifferent to the punishment that may be inflicted. I have no desire to preserve a life, that shall be stigmatized by a conviction of this Court on the charges of cowardice.

The first specification, under the charge of treason, relates to sending the vessel, on the first of July, from the Miami, with hospital stores, sick, baggage, and army documents. As to sending the vessel with what she had on board, except the last article, it is not disputed; but that for the reasons, which according to the testimony of general Mac Arthur, I assigned for it at the time, it would not have been an improper measure had not war been declared. The whole criminality then, in this respect, rests on the truth of the allegation, that I despatched the vessel, knowing of the war; and with a design to give traitorous intelligence to the enemy.

It is very certain that I had no direct intelligence of the war on the first of July, when the vessel was despatched. I had on the twenty-sixth of June received a letter from the Secretary at War, dated on the day war was declared, the eighteenth of June; and I afterwards received another letter from him of the same date, announcing to me the declaration of war. It seems to have been intimated that the letter of the eighteenth of June, which I received on the twenty-sixth, was the letter announcing the war. But I think the testimony of general Mac Arthur settles that point. He acknowledges that I shewed him the letter which I received on the twenty-sixth of June at the time I received it. And also the letter which I received on the second of July, at the time that letter came to my hands. But if the testimony of general Mac Arthur, and other witnesses, left any doubt on this subject, it must be removed by a reference to a letter from me to the Secretary at War, which has been read by the Judge Advocate, dated at Fort Findlay on the twenty-sixth June, which acknowledges the receipt of the letter from him of the eighteenth of June, which I had then received. In which I say, "*in the event of a war*," it will be necessary to pursue certain measures. I think this is evidence, not only that the letter, which I had received on the twenty-sixth of June, was not the letter which announced the war, but that the letter which I did receive, gave me no expectations that war was declared when I wrote.

It may be said, however, in the language of some of the specifications, that though I had no certain information of the declaration of war when I despatched the vessel, I had "sufficient cause to know or be-"lieve that war then existed." As I have said the first letter from the Secretary at War dated on the eighteenth of June, gave me no cause to know or believe the fact, all that is in that letter which could by any possibility be supposed to have relation to such an event, are these few words, "circumstances have recently oc-"curred, which render it necessary you should pursue "your march to Detroit with all possible expedition." This was but a reiteration of my former orders. In the letter from the Secretary at War of the ninth of April, I am directed "to repair with as little delay as "possible to Detroit." How then was I to infer, from this letter, that war had been declared? I did never suppose, that if war was declared, I should receive a peremptory order from Washington, to march my whole army, in all events, to Detroit; thereby leaving the enemy at Malden, eighteen miles in my rear, directly on my line of communication, with all the facilities which he had, by reason of his command of the waters, to cut off my supplies. Such an order appeared to me so inconsistent with my military experience, that I did not suppose it could have been founded on a declaration of war, or even on a prospect of immediate hostilities. I did suppose, that, in the event of a war, a discretion would have been left me, to conduct my troops in such a manner, as I might judge from circumstances would be most conducive to their

security, and most likely to effect the destruction of the enemy; and that I should have been left at liberty to post my army in what I might think the most advantageous situation. I did suppose, that when it was seen that war would be immediate and inevitable, I should have been informed of measures taken to reinforce me, and to keep open the road, which it was known I was obliged to make for near two hundred miles through the wilderness, and on which my army must depend for its supplies. I did suppose, that I should have been informed of co-operations intended for my support, and of means provided for my communicating with those who might direct those co-operations. And I did suppose, that I should have been informed of measures taken to obtain the command of the waters. All my intercourse, as well previously as subsequently to my appointment, as I shall hereafter prove, with the executive officers of the government, gave me reason to expect, that all these measures would be pursued in the event of a war. How then was I to understand, from this simple intimation, that circumstances had occurred which required that I should pursue my march to Detroit with expedition, that war was actually declared or immediately expected? Besides, it naturally occurred to me, that if the circumstances alluded to by the Secretary were a declaration of war, or such as would immediately lead to it, I should be told so explicitly. I could conceive no reason for making his communication to me in ambiguous terms.

But it may be said, that general Mac Arthur has proved, by the testimony which he has given, relative

to conversations he had with me when I received the letter from the Secretary at War, on the twenty-sixth June, and when I despatched the vessel on the first of July, that I had "sufficient cause to know or "believe that war then existed."

General Mac Arthur's testimony on this subject is as follows: "On the evening of the twenty-sixth of "June, an express arrived from Chillicothe, bearing a "letter for me, another for general Hull. I went "with the bearer to general Hull, who opened his let- "ter and handed it to me. It was from the Secretary "at War, dated June eighteen, eighteen hundred and "twelve. It stated, that circumstances had occurred "that made it necessary that the General should pro- "ceed to Detroit, take measures for defence, and wait "for further orders. I also received a letter from a "friend, quoting a postscript to a letter from general "Worthington, a senator in congress, which postscript "said, 'before this reaches you, war will be declared.' "I stated to the General, that colonel Dunlap, the "bearer of the express, had told me, that before that "time war was declared. The General then asked "me what I thought of the Secretary's letter. I said "I thought it notice of a declaration of war. The "General said it seemed very much like it. The "General and I had a great deal of conversation on "the information we had, from time to time, received, "and we appeared to agree that war was certainly "declared."

General Mac Arthur further testifies, " that on the " morning of the day on which we left the encamp- " ment near the Miami, the General sent for me to " his tent, and stated that he thought of sending the " baggage by water from that place. I said I thought " it hazardous, that possibly the British might have " information of war, and might take the vessel.

" The General replied, he could not imagine " there was any danger, the wind was fair and the ves- " sel would pass in a short time; adding that he could " not take upon himself the responsibility of carrying " on the teams any further. I think there was a ver- " bal or written order to embark the baggage. I stat- " ed to the General that I did not like to send on my " baggage, but if it was a general order it must be " complied with. We proceeded on towards Detroit, " and on the first or second evening after, the com- " mandants of corps were called to the tent of general " Hull, and were informed, that a letter had been re- " ceived from the Secretary at War, announcing the " declaration of war." The witness further stated in some part of his examination, that notwithstanding the order, he sent nothing by the vessel but his mess boxes.

I must beg leave first to remark to the Court, that this testimony of general Mac Arthur affords strong evidence of the fallibility of his memory. For he states, that the letter from the Secretary of War, which I shewed to him at Fort Findlay on the twenty-sixth

of June, ordered me to "proceed to Detroit, take measures for defence, and wait for further orders." An order to prepare for defence would have been a much more significant intimation of a declaration of war than any thing the letter contained. A copy of the letter furnished by the War Department is before the Court, and will prove how far general Mac Arthur may be mistaken. The expressions which he gives, as having been contained in the letter which he saw on the twenty-sixth of June, are contained in the letter announcing the war, which was shewn to him on the second of July. It cannot be pretended, that he might have seen this last mentioned letter on the twenty-sixth of June, because if that had been so, there could not have been, after the explicit information contained in that letter, any such debate, as he states there was between us on the twenty-sixth of June, as to the possibility of war having been declared. I do not mean to charge general Mac Arthur with a wilful misrepresentation. I have no doubt but that the zeal, which he has manifested for my conviction, has led him into this mistake. As this is the highest charge against me, he probably has felt the most anxiety that it should be substantiated; and his mind has adopted as the impressions of his memory, what are only the results of his wishes. I mark this inaccuracy of general Mac Arthur the more particularly, to shew, that inasmuch as he was so materially mistaken, with respect to the contents of the letter which he states he had in his hand, and deliberately perused, and has confounded what passed at one time with what occur-

red at another, he may very possibly be as far mistaken in relation to the conversations he has related.

I do aver, that, in respect to the conversation which he relates as having passed between us on the twenty-sixth of June, he is mistaken; or rather, he represents it in a manner calculated to make impressions altogether different from what in truth it ought to do. After he had informed me of the letter he had received, quoting the postscript from general Worthington, and after he had communicated to me what had been said by colonel Dunlap, the bearer of the letters, I might have said, it seemed like war, or made use of some expression of that sort. But I deny that I ever said that the *Secretary's Letter* seemed like war; on the contrary, that letter induced me to suppose, notwithstanding the postscript from general Worthington and the information of colonel Dunlap, that war could not have been declared.

I beg the Court to remark, that neither the postscript, nor the information of colonel Dunlap did state, or could have stated, that war was declared; but merely gave their opinions, that war would be declared by the time the letters were received, without stating any grounds for their opinions. Considering however the information of general Worthington as coming from a source entitled to great respect and consideration, it induced me to think it possible, that war might have been declared. But when I found day after day passing without intelligence from the Government,

when I found that on the first of July, five days had elapsed since the arrival of colonel Dunlap, and when I felt confident that not a moment would be lost in despatching a messenger to me, whenever war was declared, I was satisfied that the information, which had been communicated to me through general Mac Arthur, had no other foundation than those rumours and expectations, which had been so long afloat throughout the country.—One circumstance was a strong inducement to believe, that the relations of peace with Great Britain had not been interrupted. When I left Washington, the Secretary of War had told me, it was not expected that war would be declared before the fourth of July. This is a fact, though the Secretary at War has answered to the ninth interrogatory addressed to him, that "he had not such "a recollection of the conversation between us re- "specting the probable time of the declaration of war, "as to enable him to answer satisfactorily on that "subject."

But as I had not on the first of July, when I despatched the vessel, received myself any information of the declaration of war, I was to presume, that the enemy could not have been apprised of that event. It appeared to me an inadmissible imputation on the administration, to suppose it possible, that they would suffer information of intended hostilities to be conveyed to the enemy, before it could reach their own General—Yet it was fourteen days after war was declared before I had any information of it: though it appears, that a letter from the Secretary at War,

written on the eighteenth of June, had reached me at Fort Findlay in seven days, and an attention to the dates of the correspondence between me and the War Department will shew, that the communication between the City of Washington and the army, even when it was in Canada, might be made in eight or ten days. In the Secretary's letter to me of the first of August, which has been read, he acknowledges the receipt of mine of the nineteenth of July by captain Curtis, who left my head quarters at Sandwich on the twentieth of July. I never heard that any duplicate of the letter of the eighteenth of June was written to me, or that the letter was delayed by any accident; nor do I know that any letter was written to me by the administration, after war was declared, except the one of the eighteenth of June, till the twenty-fourth of the same month, when six days had elapsed. A letter written at Washington on the eighteenth of June might have reached me by express in five days. But the letter which was to give me the first information of the war, if it left Washington on the eighteenth or nineteenth of June, could not have travelled at a greater rate than thirty miles a day.

I think, after this statement, the Court will not say, that it was *treasonable* in me to conclude, that it was impossible the administration should have left me ignorant of the war, when it might be known to the enemy.

I beg to direct the attention of the Court to the testimony of general Cass upon this point. He had

a perfect knowledge of all the circumstances, with which general Mac Arthur and myself were acquainted. He had seen the letter of the eighteenth of June from the Secretary at War, which I received on the twenty-sixth. He knew what information general Mac Arthur had received from his correspondent and from colonel Dunlap. He testifies, that when the vessel was despatched from the Miami, he had no reason to believe that, at that time, I knew of the war. He had no conversation with me, which could induce such a belief. He sent his own baggage and servant by the vessel which, on his cross examination, he says he certainly should not have done, if he had had any thought that war then existed.

But it appears, that, immediately after the receipt of the letter announcing to me the declaration of war, I used every possible exertion to recal the vessel. I refer the Court on this point to the testimony of captain Fuller. This conduct is entirely inconsistent with the criminal intentions which are imputed to me in respect to this transaction.

It remains for me to notice that part of this charge, which states, that I put on board the army documents and papers, whereby the enemy were made acquainted with the force of the army, the designs of the government, and with the declaration of war.

I do not hesitate to acknowledge, that it was improper to trust the documents which were put on

board that vessel to such a conveyance, or even for me to part with them in any way, whether in peace or war. But I trust it has satisfactorily appeared to the Court, from the testimony of captain Hull, that this was owing to an accident, which might have happened to the most careful commander. I had ordered my baggage to be put on board the vessel, not supposing it possible that the trunk, containing my papers, could have been considered by my aids-de-camp included in that order, and it was not till after the vessel had departed, that with equal surprise and regret I learnt that my aids-de-camp had, with my baggage, shipped a trunk which contained nothing but papers. There is one allegation in this charge, that I feel myself authorized to repel with some indignation, because I think it could only have been made with a view to exculpate others from misconduct at my expense, by an attempt to make it be believed, that the enemy derived a knowledge of the war from the capture of this vessel. If this were so, how is it to be accounted for, that the enemy should have assailed her in a hostile manner before she was captured?

The Court will recollect, that lieutenant Goodding states, that when the vessel was off Bois Banch Island, the enemy's armed brig Hunter bore down upon her, and that she was pursued by a batteau from Malden, filled with armed men. But the suggestion, that the enemy derived their knowledge of the declaration of war from the papers found on board the vessel, is repelled by the fact, that this vessel had no documents on board which could possibly give them that information.

She could not have had, for I had no such documents in my possession at the time she sailed from the Rapids of the Miami. It is also a fact, which is now notorious, that the enemy had received information of the passing of the act declaring war, several days before I had any communication from Washington on the subject. It is as ungenerous as it is unjust, to charge the enemy's prior knowledge of the declaration of war to any act of mine.

I have now closed my defence on this first specification under the charge of treason. And although I persist in my objection to this Court's taking cognizance of that crime, yet I have given the charge a full examination, because the same facts are specified under the charge of unofficer-like conduct. And I shall rely upon what I have now said for my vindication against the specification which relates to this subject under that charge.

To sustain this charge of treason there are two other specifications, one relating to the supposed delay in attacking Malden and the retreat from Sandwich: the other to the surrender of Detroit. But as there is a repetition of these specifications under the two other charges, I shall not now notice them further than to observe, that these specifications, under the charge of treason, allege, that the delay, the retreat, and the surrender, were all in pursuance of a traitorous combination and conspiracy between me and certain enemies of the United States, whose names are unknown. If the Court had cognizance of this crime of treason, I

could not be convicted, unless the traitorous combination and conspiracy were proved. I might ask, where is the evidence of any combination or conspiracy between me and the enemy ? But I forbear with indignation the examination of such a question—And now, when the Court has before it all the testimony that the utmost efforts of my prosecutors have been able to bring against me, I ask them to judge from what malignant source the information which could have suggested this charge must have been drawn. Some of the witnesses who have testified against me, must have furnished the materials, from which the gentleman employed by the government to frame the charges must have drawn them. They must then have made suggestions to him, which they dare not attempt to support by their own oaths, or by one particle of proof; and which could have resulted only from the bitterness of their own hearts towards me.

Pursuant to the arrangement of my defence, which I have before suggested, I shall next consider the specifications, which charge me with crimes, or misconduct, in delaying to attack Malden; in withdrawing the army from Canada ; and in making the final surrender.

There are, as I have said, accusations, which are not immediately connected with these transactions, and these I shall notice in the course of my defence. But if I should satisfy this Court, that these cardinal accusations are unsupported, that the measures to which they refer were fit and proper, and such as cir-

cumstances required; or if it should *now* appear, that a different course in respect to either of these measures ought to have been adopted, yet if I should satisfy the members of this Court, that in my conduct upon these occasions, I have been actuated by the purest motives, and a sense of duty, I trust I shall not be judged criminal. I shall not pretend, that I may not have erred, but error and crime are not convertible terms.

When I accepted a commission from the government, I pledged to them my utmost zeal and ability, in discharge of the duties of the office they conferred upon me; and I trust that pledge will not be considered as forfeited, though it should appear to this Court, that on some occasions my judgment may have misdirected me. The profession of a soldier would not be longer honourable, if neither the purest intentions, nor the most zealous exertions could shield him from criminal imputations on the errors of his judgment.

My defence, Mr. President, on these points, as well as all others, will be a relation of facts and circumstances, and an exposition of the considerations and motives which have governed my conduct.

You cannot, Gentlemen, form a just decision upon my case, nor judge of the considerations which have influenced my conduct, unless you understand what were my views, and the views and expectations of the

executive officers of the government of the United States, in respect to the north-western army, its relations, and objects, when I accepted my commission in April, eighteen hundred and twelve.

I feel some embarrassment, in presenting to you this part of my case. I am well aware, that it may be said, that I am attempting to exculpate myself by censuring others. I well know too, that the political feelings of many persons are so sensible and warm, that the slightest imputation of misconduct against the administration will excite their prejudice, and that such prejudices are the more likely to be roused, when the charge is made by one, who is prosecuted by the administration. But, Gentlemen, I shall say nothing of the officers of the government, which is not supported by irrefragable testimony. I shall only present for your consideration facts, which are proved by documents before you, and shall make no observations upon them, which are not obviously and absolutely necessary for my defence. Much less shall I attempt to charge the administration with any wilful misconduct. I believe every member of it to have been actuated by the purest motives, and the most ardent zeal in preparations for and prosecution of an inevitable war. A *war*, in which I should never have enlisted, had I not believed it both just and necessary. And while my country is engaged in such a contest, let my former services to her, let my former character shield me from the suspicion, that I would voluntarily say one word, that shall lessen the confidence of my

countrymen in those, under whose auspices our battles must be fought, and by whose wisdom and strength our misfortunes are to be redeemed, and our honour is to be saved.

But in my own vindication, and in defence of that honour, which the government have now put at stake, I am obliged to say, that the army I commanded had not that co-operation and support, which, when I accepted my commission, the government gave me reason to expect, and without the prospect of which I should never, with the force that was placed under my command, have thought of carrying on offensive operations against Upper Canada; nor even have placed my army, unless in obedience to orders, in the situation, in which it was, after its arrival on the waters of lake Erie.

When I accepted the command of the north-western army, I did not suppose, that, in the event of a war with Great Britain, the force of that army would be *adequate* to conquer Upper Canada; nor did I believe, that the administration had such an opinion. But on the contrary, I did understand, and such it will appear was the understanding of the executive officers of the government, that in the event of a war, the operations of my army would be strengthened and secured by a competent naval force on lake Erie, and by the direction of other forces against the enemy's territory.

Had these expectations been realized, instead of having lingered out so many months as a prosecuted

criminal; instead of now standing before you as an accused, I might still have shared my country's confidence.

The foul charges, to which I am now to answer, would not have thus blasted the *laurels* of my youth; but even in the wilds of Canada, and amidst these whitened locks, they might have retained their pristine verdure.

I proceed, Gentlemen, to turn your attention to the documents, by a reference to which I mean to shew, what were my views and expectations, and what I had a right to suppose were the views and expectations of the administration, on the subject which we are now considering.

The first paper read by the Judge Advocate was a memorial addressed by me, in eighteen hundred and nine, to the then Secretary at War.

From this memorial the following is an extract:—

"My residence at Detroit, for four years, has given "me some knowledge of our northern and western "frontier, and I take the liberty of communicating to "you such facts as have fallen under my observation, "the opinion I have formed, and the measures, which "appear to me the most expedient under the existing "state of things."

After a variety of suggestions, and among others, that though war should not take place, it would be

necessary to have a larger force in Upper Canada than was then there. The memorial is as follows:—

"I would likewise suggest, for consideration, the ex-
"pediency of building some armed vessels on lake
"Erie, for the purpose of preserving the communica-
"tion. *Consider*, you have *three military posts* to the
"north and west of these waters, and no other com-
"munication with them."

It is true, this memorial was written in time of peace, but the suggestion, as to the naval force, could only be with reference to its use in war.

I do not know for what purpose this memorial was read by the Judge Advocate, unless it were to shew, of what importance I thought our possession of Detroit. Sir, my opinion on that subject has ever been, and is yet the same, as expressed in that memorial. I thought the administration had the same sentiments, and therefore I was the more firmly persuaded, that they would have taken every possible means to support the army, which was sent for its protection. At the moment I was surrendering that fortress, a conviction of its great importance increased the poignant regret, which I felt for the necessity of the measure.

On the sixth March, eighteen hundred and twelve, which was about a month before I was appointed to a command in the army, I addressed another memorial to the administration, which is so important

to shew my views, with respect to the force to be directed against Upper Canada in the event of a war, that I beg leave to read the whole of it. It is in the following words:

(COPY.)

"WASHINGTON, March 6, 1812.

"SIR,

"THE prompt manner in which you have adopted measures for the protection of Detroit, and the other settlements in the territory of Michigan, inspires me with confidence, that such ulteriour arrangements will speedily be made, as the peculiar situation of that section of the United States may require.

"How far the measures already adopted will give security to that part of the country, in the event of war with Great-Britain, is a subject worthy of consideration.

"Officers of a company have been appointed, with orders to recruit in the territory.

"The Secretary, acting as Governour, has been authorized to make a detachment of four companies of militia, and call them into actual service.

"The commanding officer of Fort Detroit has been directed to erect batteries on the banks of the river Detroit, for the protection of the town.

"These, as incipient measures, I very much approve, and was particularly pleased with the decisive manner they were adopted. It must be apparent, however, they add no *physical* strength to that section of the country; the force already there is only better organized and prepared to be called into action. The comparing of this force with the force which may be opposed to us, will evince the necessity of additional means of defence, if the country is worth preserving.

"In the fort of Detroit, I understand by the last returns, there are less than one hundred regulars. The population of the territory is less than five thousand, and this population of the territory principally of Canadian character. Connected with the post of Detroit, and three hundred miles north, is the island of Michilimackinac, where is a fort garrisoned by a company of regulars. Near the south bend of lake Michigan, on the westerly side, is Fort Dearborn, likewise garrisoned by a company of regulars.

"This is all the force on which we can at present calculate, for the safety of our frontier, and for the protection of the Indians, which the United States are bound by treaties to afford.

"No support can be derived from the Indian nations, even in the event of war, because our officers are instructed to advise them to remain neuter, and not to accept their services if they should be offered.

"I will now consider the British force opposed to this part of the United States. A fort at Amherstburgh, at the mouth of the Detroit river, garrisoned by about one hundred British troops. Another fort on the island of St. Joseph's, at the mouth of the river St. Mary's, garrisoned by about fifty British troops. Two armed ships on lake Erie, which command the waters, and would prevent all communication from the States through that channel. A population of at least fifty thousand in that part of Upper Canada, which is connected with the Detroit river and lake Erie, and could easily be brought to operate against our settlements.

"About four thousand men, principally Canadians, employed in the Indian trade and under British influence; and lastly may be reckoned all the Indians in Upper Canada, and a large proportion of the powerful nations residing in the territory of the United States, who now hold a constant and friendly intercourse with the British agents, and are liberally fed and clothed by the bounty of the British government.

"It appears, from this statement, that the British force which can be brought to operate against us in the territory, is more than ten to one, without including the Indians.

"It requires no difficult reasoning to determine what must be the consequence. That part of the United States must fall into the hands of the British govern-

ment, with all the inhabitants, the forts at Chicago, Michilimackinac and Detroit, and all the public stores, with the public and private vessels on the lake. This will give our enemies the entire command of all the country north and north-west of the Miami of lake Erie; and the settlements on the western part of the state of Ohio will be subject to the depredations of the powerful northern nations of savages. There is nothing in my opinion (in the event of war) can prevent this state of things, but an adequate force on the Detroit river, opposite to the settlements in Upper Canada.

"It may be asked, how is this force to be placed there, and how is it to be supported? If, Sir, we cannot command the ocean, we can command the inland lakes of our country. I have always been of the opinion that we ought to have built as many armed vessels on the lakes as would have commanded them. We have more interest in them than the British nation, and can build vessels with more convenience. If however there is no intention of the kind, that communication must be abandoned until we take possession of the Canadas.

"The army which marches into the country must open roads through the wilderness, and the supplies of provisions, and whatever else may be necessary, must pass by land through the state of Ohio.

"If the conquest of the Canadas is the object of the Government, they will there have an army in a

proper situation to commence operations, and at the same time protect the defenceless inhabitants, and controul the Indians within our territory. The answer probably may be, it is more expedient to leave the Michigan territory to its fate and direct the force to Montreal. This will prevent all communication by the St. Lawrence with Upper Canada, and it must of course surrender. In this expectation I think it probable there would be a disappointment, if a force is not sent sufficient to oppose the British force, which may be collected at Amherstburgh and its vicinity. Detroit, Michilimackinac, and Chicago must fall. The inhabitants must once more change their allegiance, and the Indians become the exclusive friends and allies of the king, their great father.

"In the garrisons at these places they will find large quantities of arms and military stores of every kind. Upper Canada and our country, of which they will be in the possession, will furnish them with provisions. How then will Upper Canada be conquered, by possessing Montreal? They will be in the quiet possession of their country, and a part of ours, and how are they to be approached? You cannot approach them by water, because they command the lakes. In approaching by land, you must pass through a wilderness, filled with savages, under British controul, and devoted to British interest.—The consequences of such an attempt may probably be best learned from the history of the campaign in that very country, conducted by generals Harmer, St. Clair, and Wayne.

In Upper Canada they have a governour, who is a major-general in their army, and who commands the regular troops, the militia, and the Indians. The whole force of the country is therefore combined under his command, and may be directed to a single point without any collision.

"From the preceding statement of facts and observations it must be apparent, that Fort Detroit and the settlements in its neighbourhood, and likewise Michilimackinac and Chicago, under present circumstances, are in the power of the British, and that their possession of them would be extremely calamitous to the United States.

"In the event of peace with England, I am of the opinion, that the northern frontier ought to be better protected than it is at present. In the event of war, and the object being the reduction of the provinces of Upper and Lower Canada, I think it must be evident, that the establishment of an army at Detroit, sufficient to defend that part of the country, controul the Indians, and commence operations on the weakest points of defence of the enemy, would be an incipient measure, indispensably necessary. With respect to the other points of attack, I shall make no observations, as I probably shall have no agency in them.

"In considering this subject, I have endeavoured to divest myself of all local feelings, and have grounded my observations and opinions on public considerations

alone. Two things appear to me to be certain, one is, that in the event of war, the enemy will attempt to take possession of that country, with a view to obtain the assistance of the Indians residing in our territory; and the other, that under its present circumstances of defence it will be in their power to do it. A part of your army, now recruiting, may be as well supported and disciplined at Detroit as at any other place. A force adequate to the defence of that vulnerable point, would prevent a war with the savages, and probably induce the enemy to abandon the province of Upper Canada without opposition. The naval force on the lakes would, in that event, fall into our possession, and we should obtain the command of the waters, without the expense of building such a force.

"The British cannot hold Upper Canada without the assistance of the Indians, and that assistance they cannot obtain if we have an adequate force in the situation I have pointed out.

"There is another consideration very important. It will do more to prevent a general Indian War with the Indians, as far west and beyond the Mississipi, than any other measure. The Indians cannot conduct a war without the assistance of a civilized nation. The British establishment at Amherstburgh is the great emporium, from which even the most distant Indians receive their supplies. A force, at the point I mentioned, would prevent all communication of the Indians with that post. Indeed, Sir, in every point of view

in which the subject can be considered, it appears to me of the first importance to adopt the measure.

"I am very respectfully,
"Your most obedient servant,
"WILLIAM HULL."

To this document is annexed a copy of a letter from me to the Secretary at War, and the two documents are certified as authentic documents in the following words:

"Copy of the original on file in the War-office.
"D. PARKER, Chief Clerk."

Can it be supposed, after this exposition of my views of what would be the enemy's force and situation, that I could ever have taken the command of about four hundred regular troops, and sixteen hundred militia, to effect, by means of such a force, without any assistance or co-operation, the conquest of a province, a part only of which I had represented as containing fifty thousand inhabitants? That I could have contemplated an attack on an enemy, having at its disposal, a body of regular troops, the controul over countless savages, and the great advantage of the command of the lakes and waters? This memorial was received and approved by the Government. This in itself is proof of their adoption of its sentiments, and that it was their opinion, as well as mine, that in the event of a war, such an army as was put under my command could do nothing offensive, unless we

had a naval force on the upper lakes; and without a co-operation on other parts of the enemy's territory, which should distract his attention, and prevent his bringing the greatest weight of his power on a single point.

A few days after I was appointed to the command of the north western army, I presented another memorial to the President, through the War Department, in which I was explicit, as to what might be expected from such a force, as I was to lead; as to the necessity of reinforcements; of our commanding the lakes; and of a co-operation in other quarters. My draft of this memorial I have lost, in the way which I shall hereafter explain. The existence of the original, and its general purport, is proved by Mr. Eustis, who, in his answer to the sixth and seventh interrogatories, addressed to him, says, "I have a perfect recollection of your having presented the memorial referred to in the interrogatory. I recollect," he adds, "your attendance, by appointment, at the War Office. The memorial, or that part of it which related to the naval defence of lake Erie, was referred, or communicated, to the Secretary of the Navy, who was present. The brig Adams, which had been employed as a transport, under direction of the War Department, became the subject of conversation. Whether she was (being then on the stocks repairing) actually transferred to the Navy Department, I do not distinctly recollect. If that was the case, the evidence is on record."

Yet this memorial, or a copy of it, I have never been able to obtain. I have applied for it to the Secretary at War. He referred me to the Secretary of the Navy; the Secretary of the Navy to Mr. Dallas; to him I applied, and he referred me to the present Judge Advocate, who knows nothing of it.

And finally, when my trial commenced in this city, I addressed a letter to the President of the United States, requesting him, to interpose his authority to procure me a document, which I considered so important in my defence.

It was, Sir, too much for me to have expected an answer from the President himself, though the time has been, when such an answer would not have been considered as conferring too great an honour.

The President referred my letter to the gentlemen at the head of the War and Navy Departments. They also would not condescend to answer my letter, but handed it over to their clerks. The elevation of these gentlemen seems to have rendered them giddy. I ask, would it not have comported with the importance of the occasion, the decorum due to an old man, and a veteran soldier, not yet convicted of any crime, for the Secretaries themselves to have addressed me?

But in answer to my letter, I received a letter from the Chief Clerk in the War Office, dated twelfth of February, one thousand eight hundred and fourteen; with

a certificate from the chief clerk in the Navy Department. The letter from the War Office is in the following words:

"WAR OFFICE, February 12th, 1814.

"SIR,

YOUR letter of the first instant, addressed to the President of the United States, has been referred to me. In answer to which, I have the honour to state, that all your communications to the War Department, after you were appointed brigadier general in the army, have been transmitted to P. S. Parker, esquire, judge advocate of the court-martial, now sitting at Albany, together with such others as you had required, as far as they could be found on the files of this office. The public records of papers of the War Department have been constantly within my observation and charge for several years past, and I assure you, Sir, I have never seen or heard of a memoir, pointing out the necessity of a navy on lake Erie.

"Since the receipt of your letter, I have carefully examined the files, and inquired of every gentleman attached to the Department, without being able to give any information on the subject.

"I have the honour to be, Sir,

"Very respectfully, your obedient servant,

"DANIEL PARKER, C. C.

"BRIG. GEN. WILLIAM HULL,
"ALBANY."

It is unaccountable, Mr. President, that a public document of this nature should be lost. That it did exist, and was on the files of the War Office, is proved beyond controversy, by the deposition of the late Secretary at War, who swears that he has a *perfect recollection of it*. But a most extraordinary part of this letter from the War Department, is that which states, that the writer has had the public records, and papers of the War Department, constantly under his charge and observation for several years past; yet, that he never knew or heard of a memorial, pointing out the necessity of a navy on lake Erie. Mr. President, it is a fact hardly to be credited, that the copy of the memorial of the sixth of March, eighteen hundred and twelve, from which I made that copy which I have just read to the Court, is certified as a true copy from the files of the War Office, by *the very gentleman*, who writes me the letter of the twelfth of February. Let me quote from the memorial of the sixth of March, or rather from the copy certified as I have mentioned above, a passage which is in the following words:

"If, Sir, we cannot command the ocean, we can "command the inland lakes of our country. I have "always been of opinion that we ought to have built "as many armed vessels on the lakes as would have "commanded them. We have more interest in them "than the British nation, and can build vessels with "more convenience. If, however, there is no inten-

"tion of the kind, that communication must be aban-
"doned until we take possession of the Canadas."

When the writer of the letter had certified a copy of this memorial but a few days ago, how could he say, that he never knew or heard of a memorial pointing out the necessity of a navy on lake Erie?

I will not presume, Sir, that the writer of the letter intends an equivocation, and designs that his meaning shall turn upon the use of the word *necessity*. This I think would not be consistent with the solemnity of the occasion on which his letter is written; nor, Sir, would it serve him: because it is impossible to read my memoir of the sixth of March, without perceiving, that I do, from the beginning to the end, point out the necessity of a navy, in every sense in which the word necessity can be applied on such a subject. I am very far, Sir, from meaning to insinuate, in the remotest degree, that the letter from the Clerk of the War Department contains any intentional misrepresentation. His character and station protect him from such a suspicion, and as the memorial which proves the inconsistency of the letter has been furnished, the declaration in the letter could not have been made with any sinister design; and I have only trespassed on the patience of the Court with these observations on this subject, to shew, that as the memorial of the sixth of March, eighteen hundred and twelve, has been so entirely forgotten at the War Office, the certificate from thence, that a memorial

pointing out the necessity of a navy on lake Erie, was never read or heard of there, is no sort of evidence that another such memorial may not have existed as well as that of the sixth of March.

The certificate from the Navy Department has been read. It will appear in the minutes, and I shall trouble the Court with no remarks upon it.

In respect to this memorial I can now only rest upon my own declarations, which I think, when I am in this manner deprived of the benefit of the paper, I am authorized to make. It did contain a representation, in the most explicit and strongest terms, of the necessity of our having a naval force superiour to the enemy on the lakes; and that without it, and unless the army I was to command, was strengthened by additions to its numbers; and unless it were followed by detachments, to keep open the communication, and insure its supplies from Ohio; and unless it was supported by co-operations, on other quarters, my army could not be able to maintain itself at Detroit, much less carry on offensive operations in the enemy's country.

That such were the views and sentiments of the government as to my expedition, as well as my own, and that I was not expected to do more than protect Detroit, and that quarter, and to keep in awe the Indians, will further appear, from the facts and documents, to which I shall now refer.

Upon this subject, I beg to turn the attention of the court to the testimony of general Porter. It will prove, how pressing I was on the subject of a naval force, not only with the Secretaries, but with the President himself.

The deposition of captain Charles Steward, of the navy, states, that, at an interview he had with the Secretary of the Navy, in the beginning of April eighteen hundred and twelve, the Secretary informed him, "that it was contemplated to give him the com-"mand on the lakes; that a naval force superiour to the "British on the lakes, had been strongly urged by "general Hull, *as essential*, and as a certain means "of insuring to the army success."

I beg the court to notice that it is here stated, that I had strongly urged that the command of the lakes was *essential* to success.

The first letter which I received from the Secretary of War, after my appointment, and which is dated the ninth of April, eighteen hundred and twelve, describes the force which was to be under my command. The description, of itself, I presume, must preclude an idea, that it could have been intended for invasion or conquest. But its objects are expressed in this letter. I am directed, as the commander of that force, to "adopt such measures with the chiefs of the "several tribes of Indians, as might, in my judgment,

"appear to be best calculated to secure the peace of "the country."

In the first letter which I received from the War Department, dated the eighteenth of June, and which was delivered to me on the twenty-sixth of the same month, I am directed to pursue my march to Detroit with all possible expedition; and the second letter from the Secretary at War, of the same date, which announced to me the war, gives me the same positive command to proceed to that post. If the army I commanded, had been deemed competent to carry on offensive operations against the enemy without any assistance or support, my orders would certainly have been of a different nature.

It would have been left to my discretion, to pursue such measures as I might have judged most efficacious. With an army, competent to make an invasion, Detroit would not have been the point from which it should have been made.

A station opposite Amherstburgh would have been on many accounts a preferable position, but Detroit was the proper situation for the army, for the purpose of protecting the territory and inhabitants of Michigan, and of keeping in awe the savage tribes.

I beg that it may be observed, that I do not pretend, that it was not contemplated, that the army I commanded, when I was appointed to it, might be

employed in offensive operations against the British, in the event of a war; but I am endeavouring to shew, and I trust shall satisfy the Court, that neither myself, nor the officers of the government, ever supposed it would be competent to act as an offensive army, unless it was assisted and supported; or unless, as was supposed might be the case, such a *defection* of the inhabitants of Canada to the government, and a *union* of the Indians with us, should happen on the appearance of my army, as would in a great measure destroy the enemy's means of resistance.

The next letter I received from the Secretary at War, is dated the twenty-fourth June, eighteen hundred and twelve. This letter informs me, that I am authorized to commence offensive operations. This would not have been the language addressed to me upon this occasion, if the government had supposed I had a force sufficient to commence such operations. In that case I should have received a command instead of an authority.

In this letter, the Secretary adverts to my taking possession of Malden; but not as if he supposed I had the power of doing it. I am not to make the attempt, unless the force under my command, should be equal to the enterprise, nor unless I could do it, consistently with the safety of my own posts.

The caution, which it is thought necessary to communicate to me, by this letter, to be limited in my

assurances of protection to the Canadians, and the notice that it conveys me, that an adequate force cannot be relied upon, for the reduction of the enemy's posts below, is evidence, that my army was not thought sufficient to maintain itself in the enemy's country, without assistance and co-operation.

In my letter to the Secretary at War of the ninth of July, eighteen hundred and twelve, which is in answer to that I have last mentioned, in which I am told, that I am authorized to commence offensive operations, I expressed, in the most explicit terms, my opinion of the inadequacy of my force to the only offensive operation which could be undertaken from that quarter. My words are, "the British com-"mand the water and the savages; I do not think "the force here equal to the reduction of Amherst-"burgh; you must not therefore be too sanguine."

I beg the Court to remark, that this letter was written immediately after my arrival at Detroit, and a few days before I passed into Canada; of course before I had any knowledge of the fall of Michilimackinac, an event which had so decisive an influence on my subsequent operations.

On the tenth of July, I wrote two letters to the Secretary at War, both on the subject of provisions for the army. I mention to him in the first, that the contractor could not furnish the supplies, on account of the lakes being closed against us, by the British naval force. In the second letter, I reiterate the

same information; and also inform the Secretary, that I have made a new contract for provisions, which, as they cannot be transported on the lake, must be carried on horses from Ohio, through the wilderness. My letter concludes with these words: "The com- "munication must be secured, or this army will be "without provisions. Troops will be absolutely ne- "cessary on the road, to protect the provisions. This "must not be neglected. If it is, this army will perish "by hunger."

The receipt of these letters is acknowledged by the Secretary at War, in his letter to me of the twenty-sixth of July, eighteen hundred and twelve. To this letter, from the War Department, I wish particularly to direct the attention of the Court.

It shews, that the government well understood the situation of my army, and how much it stood in need of assistance and support.

By this letter I am informed, that governour Meigs has been directed to furnish troops to guard the road, and insure the transportation of provisions;—that general Winchester had been ordered to reinforce me with fifteen hundred men;—that a force was collecting at Niagara;—that the commander in chief would be apprised of my situation, and directed to take measures to afford me the necessary support.

It is not my intention, at this moment, to shew, that none of the expectations, which this letter au-

thorized, were ever realized. I now refer to it, only as I have mentioned, to prove, that the officers of the executive government must have considered my army, situated as it was, incompetent to carry on, of itself, effectual operations against the enemy.

In my letter to the Secretary at War, of the nineteenth of July, eighteen hundred and twelve, are the following paragraphs :

"If you have not a force at Niagara, the whole force of the province will be directed against this army."

"It is all important, that Niagara should be invested—all our success will depend on it."

There has been read by the Judge Advocate, a letter from the Secretary of War to me, dated the first of August. This letter I never received. It, however, shews no less, on that account, how necessary it was thought, that a diversion should he made, in favour of the army I commanded. I therefore extract from it the following paragraph :

"On the twenty-sixth July, your letters of the seventh and tenth were enclosed to general Dearborn, with a copy of mine to you of the twenty-sixth, accompanied with a request, that he would make a diversion in your favour. The General must have received this letter at Albany. By the mail of this evening, yours of the twenty-ninth is enclosed to

him, with an instruction, to make a diversion at Niagara and Kingston, as soon as practicable."

In another letter from the Secretary of War of the first of August, he acknowledges the receipt of my proclamation to the Canadians. I now refer to that proclamation, merely to direct the attention of the Court to that part in which I say, that the force I commanded was "but the vanguard of a much greater." I do this to shew the confidence I then had, that the corps I commanded was to be reinforced and supported.

On the twentieth of August, the Secretary of War addressed a letter to me, which I did not receive, but from which I here quote a paragraph, to shew how necessary he thought co-operation was for my support. The paragraph is in the following words:

"Orders have been given to general Dearborn to "attack the enemy's posts at Niagara and Kingston, "as soon as may be practicable. Our force at Nia- "gara, according to general Dearborn's account, will "amount to twenty-four hundred, and he will notify "you of such movements and operations, as he may "order."

It is from these documents, which have all been introduced by the Judge Advocate, that I prove what I undertook to do, that when I took command of the north-western army, it was understood by the ad-

ministration, as well as by myself, that in the event of a war with Great-Britain, my force was to be augmented; that my communication with the state of Ohio was to be preserved, by troops from that quarter; that the lakes were to be commanded by us; and that my operations were to be facilitated by diversions on the frontiers below me.

The Court will hereafter perceive, what an important influence a disappointment in all these particulars had on the events under consideration; and will not therefore, I hope, think I have uselessly trespassed on their time, by detaining them so long on this part of the subject.

I cannot, however, omit one farther remark. I would ask the Court, if subsequent events do not exclude a supposition, that the administration did expect, that my army was in all events to be of itself adequate to the invasion and conquest of the enemy's country; unless it be admitted, that there was an entire ignorance of what was necessary to accomplish these objects? For we have since seen general Harrison, with an army more than quadruple to that which I led, for more than a year, threatening the enemy on the same point, at which he was invaded by my army; and though ten thousand troops were co-operating with him, on the points where I had been led to expect co-operation, yet he dared not to set his foot on the enemy's shore, till after our glorious naval victory on lake Erie, and was then obliged to content

himself with the possession of no greater territory than his troops could cover.

I must intreat the Court, before I proceed to the consideration of other matters, to indulge me with the repetition of a remark which is so necessary for understanding the subsequent parts of my defence, that I am anxious to impress it on their minds.

It is, that though, as I have said, and I trust I have proved, it was understood both by the administration and by myself, that the force which I commanded would not in all events, in case of war, be competent to the invasion and conquest of Canada, yet both the officers of the executive government and myself, did contemplate, that in certain events, I might, with the army which I led, subdue the enemy's posts in the Upper Canada. It was contemplated and believed, that there would be a very general defection of the inhabitants of that province, and that many of them would arrange themselves under the American standard; and it was also contemplated and believed, that it would be possible for me to draw from them the aid of the savages. When I landed in Canada, and previously to the fall of Michilimackinac, there was every reason to suppose, that these expectations would be realized. Until that event took place, of which the enemy had notice about the second of August, I had those sanguine hopes of success which I expressed in my proclamation, and in my communications with the War Office. But after that misfortune, the scene

was entirely changed. From that moment, I saw, that although it was possible that I might obtain temporary advantages, yet that they would eventuate in the greatest disasters, unless I was aided and supported from other quarters.

Thus, Gentlemen, I have endeavoured to shew you, that I took the command under the expectation, that, in the event of a war, the operations of my army would be assisted, by a competent force upon the lakes, by detachments to keep clear the communication which I had opened through the wilderness, and by the co-operation, or at least such a demonstration of force against other parts of the enemy's territories, as would prevent his directing all his energies to the point where I might meet him. But it unfortunately happened, that none of these expectations were fulfilled. The effects of these disappointments will afterwards be considered.

I now resume my vindication of the measures, which form the most prominent features in my accusation that is to say, *the delay at Sandwich; the retreat from thence;* and *the surrender at Detroit.*

It is necessary for me to explain the views and intentions I had, when I yielded to the importunities of my officers, and crossed to the enemy's country.

It must be recollected, that the order I received in the letter of the eighteenth of June, which announced

the war, directed me to proceed to Detroit, and *there* to wait for further orders.

Finding that an impatience to cross had been excited in the army, which was likely to be extremely injurious to my authority, and the discipline of the troops, I called a council of war, and laid before the officers, the orders by which I was then *bound;* and asked their *advice*, as to the expediency of crossing. The council, notwithstanding my orders, were of opinion, that I ought to cross. I did not feel myself at liberty to follow their advice, and determined not to do so. But on the same day, I received the Secretary of War's letter of the twenty-fourth of June, in which he says, "should the force under your com-"mand be equal to the enterprise, consistently with the "safety of your own posts, you will take possession "of Malden, and extend your conquests, as circum-"stances may justify."

I did not think the force, under my command, equal to the conquest of Malden, nor did I think, that with such a *length of line of communication*, as it was requisite for me to keep open, I ought to make the attempt. My letter to the Secretary at War, dated on this same ninth of July, which I have already quoted, expresses this opinion of the incompetency of my force, in *terms* not to be *misunderstood.*

Yet, as soon as I had received this last mentioned letter from the Secretary, I determined to take post

in the enemy's country. My reasons for this determination were, that I hoped thereby to satisfy the impatience of my officers, and preserve the confidence of my army; which expressions of discontent were likely to impair.—I should command the streights, and thereby prevent the enemy from sending succours to their northern posts, or carrying on the important trade of their north-western company.

I knew, that it would have a great effect upon the Indians, to shew them the American flag flying on both shores; and I hoped, by establishing myself at Sandwich, to facilitate and increase the defection from the British standard, which had manifested itself among the inhabitants and militia, and their Indian allies. My views, in taking post in the enemy's territory, are expressed in my letters to the Secretary of War. In my letter of the ninth of July, I had, as I have above mentioned, told him, I thought my force incompetent to attack Malden. In my letter of the thirteenth, written from Sandwich, I say, "I consider "the possession of this bank as highly important; by "erecting one or two batteries, opposite the batteries "at Detroit, the river will be completely commanded. "In the rear of the army, on the *Detroit river*, *lake St. 'Clair*, and the *river Le Trench*, is a populous and "valuable part of the province. It is likewise pro- "bable, when the Indians see the American standard "on both sides the river, it will have a favourable "effect." I intended, nevertheless, without loss of time, to make preparations for putting in a state of

service my field artillery, for an attack on Malden; and whenever that should be ready, and I should find that the enemy's force was not likely to be further weakened by desertions, I would make the attack, if I had a prospect of co-operation and support from below, without which I *thought*, and I think recent events will prove that I thought correctly, I could neither preserve my own posts on our side of the river, nor that which the enemy then possessed, if I should be so fortunate as to wrest it from him.

My officers, however, were not less importunate, for proceeding immediately against Malden, than they had been to cross the river.

I felt myself compelled to yield to their importunity, and had appointed a day for the attack. But, before that day arrived, I received intelligence, that determined me to postpone the enterprise, and to recross to Detroit.

As preliminary to my vindication of these measures, it is important to consider, what numerical force I could command when I crossed into Canada; its nature; and the probable force and strength of the enemy.

In every stage of this trial, I have felt as a great misfortune, the want of that documentary evidence, which might be expected from me. This arises from the loss of the packet, which sailed from the Miami;

and from the more recent loss of all my baggage, and most of my papers. When I left Detroit, a prisoner, I left my baggage with my daughter, Mrs. Hickman, to be carried to my home by her. She soon after embarked in the enemy's brig Adams, for fort Erie.

On her arrival there, she was permitted to go to Buffalo, leaving her own and my baggage on board the brig. The same night the brig was taken by commodore Elliot, retaken by the enemy, and burnt with all my baggage on board.

This loss of my documents has left the witnesses, who testified against me, to speak on many important points, from estimation and conjecture, and they seemed, to have availed themselves of the liberty, so as always to make their estimates such, as would be most against me. I shall myself be obliged often to speak of numbers from conjecture and estimate, but when I do so, I shall endeavour to present to the Court the data, on which my estimates are founded.

Major Jessup, the brigade major, says, that we moved into Canada with sixteen or eighteen hundred men. Now, neither the Michigan legion, or the Michigan militia, crossed with the army into Canada. And besides, there were, as the Court will recollect has been testified by several of the witnesses, a portion of the Ohio volunteers who refused to cross. This number was about one hundred and eighty.

Major Jessup further testifies, "That some time "early in August, a few days previous to leaving "Canada, he was called into a council of war, to ex- "plain a report of brigade, and that there were then "eighteen hundred effective men in *Canada and at* "*Detroit.* The Michigan legion were included in "the eighteen hundred, but the Michigan militia were "not."

Now, if there were but eighteen hundred belonging to the brigade at this time, including all that were either with me in Canada, or at Detroit, and including the legion, how could sixteen or eighteen hundred have crossed with me? At the time that this report of major Jessup's was made, we had lost but few of the troops that had crossed; and from the amount, which he gives of the whole forces, at that time, to ascertain what was the number that crossed, must be deducted the Michigan legion, and the Ohio volunteers that refused to pass the river. This will leave an amount much short of the sixteen or eighteen hundred, with which, major Jessup says, we passed into Canada.

The Court will remember, that by a muster roll and return, made at Fort Findlay on the twenty-sixth of June, which has been exhibited by the Judge Advocate, the whole force which I then had under my command, amounted to one thousand, nine hundred and fifty. I was obliged to leave detachments, at Mac Arthur's Block-house, at Fort Findlay, and at

the Miami. There were about forty invalids taken in the vessel, that sailed from the Miami. I left some sick at the river Raisin, and the whole force with which I arrived at Detroit, I am convinced, did not exceed fifteen hundred men. And I am confident, that the force with which I passed into Canada, did not exceed fourteen hundred. What proportion of the militia, which I had with me at Sandwich, would have been effective to lead against the enemy, the Court may judge from general experience.

Major Van Horn has testified, that when detachments were ordered, it was always found, that not more than two thirds of the command ordered could be marched. I do not believe, that at any time, I could have led thirteeen hundred effective men against Malden. Of these, there was only colonel Miller's regiment, of less than three hundred, that had seen any service. The rest were militia, who, though they were very ardent and patriotic in their expressions had had no experience, and neither men nor officers, had ever been tried. It is not extraordinary, that I should have felt some want of confidence in these raw troops, for such a contest, as we must have expected before Malden; when it appears, by the testimony of colonel Miller, that their own officers were not willing to be responsible for their firmness in an assault. Colonel Miller states, that in a council, in which the propriety of attacking Malden was discussed, at which general Mac Arthur, general Cass, and colonel Findlay, were present; "General Hull said,

"if *we* would answer for our men, he would lead us "to Malden. I told him, I would answer for the men "I commanded; but the others said, they would not "be responsible for their men, but believed they would "behave well."

I know, sir, that it may be said, that my proclamation to the Canadians, and my letters to the Secretary at War, hold a different language. That in these I speak with confidence of attacking Malden, and of the excellence and sufficiency of my force. And I presume the specifications refer to my proclamation, and to these letters, when they allege that I had declared and avowed my intention of attacking and subduing Malden. I cannot conceive, that these declarations could prove me guilty, if my measures without them would not *have been so.* I do not see, that they can in any way be made the test of the propriety, or impropriety, of the course I pursued. It would be hard, indeed, if every general were to be judged criminal, who did not accomplish *all* the intentions he may have avowed—this would be a rule, which I presume there are *many generals* would not consent to establish. If it were adopted, no change of circumstances would justify the relinquishment of a design, once formed.

I think, when it is considered under what circumstances my proclamation was published, it will not be thought just, to adduce it as evidence against me on this occasion. I was then in an enemy's country, the inhabitants of which were sufficient, independent

of his regular force, which was established near me, and of his Indian allies, to overwhelm the army I commanded. I had no prospect of even maintaining myself, much less of making conquests; unless I could induce a great portion of those inhabitants to forsake his standard. It was incumbent on me to use all means to deprive him of aid from the savage tribes. I knew that these two objects could only be effected by representing myself as having the utmost confidence in the force I commanded, and that it was able to overcome all opposition. With these views I published the proclamation. And, indeed, the force I commanded, would have been equal to all I represented, had the same spirit of desertion and defection continued, which had manifested itself in the enemy's country, when we first invaded Canada.

But unfortunately, before we retreated, all calculations founded on this basis had failed.

In my letters to the War Department, down to the latter end of July, I speak with confidence of attacking Malden, whenever the field artillery shall be prepared. But I beg the Court to recollect, that this confidence was grounded upon the expectation, that I then entertained, that the enemy would be weakened by the desertion of his militia, and the abandonment of the Indians. In all my letters, which speak of the intended attack, I mention also the daily desertions from the enemy's standard. That I did not rely on the competency of my own force, till the enemy's should be reduced, must appear from my letter

of the ninth of July, to which I have more than once referred.

About the first of August, we received the account of the fall of Michilimackinac. On the fourth, I wrote a letter to the Secretary, from which the following are extracts.

"At the time the army under my command took "possession of this part of the province of Upper "Canada, every thing appeared favourable, and all "the operations of the army have been successful. "Circumstances have since occurred, which seem "materially to change our future prospects.

"The unexpected surrender of Michilimackinac, "and the tardy operations of the army at Niagara, "are the circumstances to which I allude. I have "every reason to expect, in a very short time, a large "body of savages from the north, whose operations "will be directed against this army," &c.

After these observations, I do not believe, that the Court will think, that it is to be justly inferred, either from my proclamation, or from my letters, that I considered my force under any circumstances, which existed before we left Canada, competent to the reduction of Malden.

The force of the enemy, lieutenant Forbish states, was, towards the last of July, about one hundred and

seventy regulars, and five hundred and fifty militia. The Indian force could never be ascertained with any precision; it could not have been less than near a thousand. I always supposed the enemy's force greater than this information makes it. But whatever may have been the force of the enemy, it must have been estimated as very considerable, by some of my officers, as well as by myself. The Court will recollect, that when I made the detachment under colonel Van Horn, to the river Raisin, and colonels Cass and Mac Arthur remonstrated with me against the sufficiency of his force, they each proposed to go on that expedition with his regiment. If the enemy had not appeared to be somewhat formidable to them, they could never have advised me to make so large a detachment as six hundred men, on a service in which they could only have expected to meet a small part of his force. Colonel Mac Arthur has afforded other evidence of his opinion of the power of the enemy. For when I proposed to leave him, with his regiment, on the Canada shore, he charged me with having an intention to sacrifice him, by leaving him with such a force at that post; although he would have been in an entrenched camp with artillery, where he would also have had some protection from the guns at Detroit, and would be in reach of instant support from thence.

The fort at Malden, I was well acquainted with. In time of peace, I had often been in it. I knew that it was capable of being made a place of strength, and

that, in contemplation of a war, the British for some time had been using great exertions to put it in the best possible state of defence. I knew, that for near twenty years, a field officer had commanded, and about an hundred regular troops had constantly been stationed in it; and that there always had been a regular corps of British artillery attached to the command. The question was, whether, with the troops I had under my command, so few of whom had ever been tried, I was to attempt to carry this fortress with the bayonet? For myself, particularly, when I considered, what would have been the consequences of an unsuccessful attempt, I had a strong conviction that it would be wrong to make the effort, till we could have the advantage of heavy artillery. But finding that many of my officers, who had seen no service, were impatient at delay, and were destroying my influence with the army, and its discipline, by their complaints and censures—for *their* satisfaction, and not for my *own*, nor for my *own justification*, two days after I crossed, that is, on the fourteenth of July, I called a council of war, in which it was decided, that no attempt ought to be made on Malden, without the heavy artillery.

My utmost exertions were then used, to get in readiness the two twenty-four pounders, and two howitzers, which were at Detroit. Carriages were to be made for them entirely new. Though a delay, in these preparations, is one of the charges made against me, not a witness has attempted to support it. Indeed,

Gentlemen, I dare appeal to every officer, who was with me, and who is willing to speak the truth, whether I did not use all possible means, and make all personal exertion, to accomplish, as speedily as possible, this desirable object. I several times crossed the river myself, to inspect and hasten the artificers. I ordered planks to be taken off my own house, to furnish a necessary part of the materials for the gun carriages.

Captain Dallaba, in his second examination, states, that he received an order to prepare the heavy artillery, after the army had crossed to Canada; he thinks it was on the fifteenth or sixteenth of July. My recollection is, that the order was given on the fourteenth, that is, the day after we crossed; and on the very day that the council of war advised, that the attack should not be made without the heavy cannon. From that time, it is not pretended there was any delay in preparing them for service, and could not have been, without the fault of the officer, who was trusted with the service. Till we crossed to Sandwich, the artificers were employed, as appears by the testimony of the same witness, in mounting the guns of fort Detroit. I beg the Court also to notice the testimony of colonel Miller on this point—he says, he saw no want of exertion in preparing the artillery.

The necessary field artillery was not prepared till the seventh of August. Two days previous to this,

I had called another council. The members determined it would be advisable to wait two days for the artillery, and if it was not then ready, the attack ought to be made without it. I did not concur in this opinion. Indeed, the opinion of the officers in this, and the former council, appeared to me inconsistent. For if, according to the decided opinion of the first council, it was then improper to make the attack without heavy ordnance, why was it not as necessary when the last mentioned council sat? And if it were proper to wait two days for the artillery, according to the opinion of the last council, why was it not proper to wait longer?

It may be said, that between the first and second council, the enemy's force had diminished by desertion. No doubt it had as to numbers. Great part of the militia had left them, and many of their Indian allies; but the fort of Malden retained all its strength, and there was no doubt, but that their regular force, (of which not an individual had deserted,) and their remaining militia were sufficient to man it. Indeed, reinforcements had arrived from Fort George, both in the brig Hunter and one other vessel. At this council, I found that nothing would satisfy my officers, or the army, but a movement towards the enemy. I felt myself obliged to yield to the advice of the council, and did, as general Cass has testified, declare that I would lead the army against Malden, as soon as the artillery should be completed.

My opinion was, that an attempt on Malden should never be made until there was an absolute certainty of success. This opinion was founded, not only on considerations which I shall hereafter mention, but upon the orders I had received from the War Department, in the Secretary's letter of the twenty-fourth of June, which I have so often quoted; and by which I was directed not to attack Malden, unless I judged my force was equal to the enterprise, nor unless I could do it consistently with the safety of my own posts. I thought, by delay, I was every day strengthening the probability of success in the enterprise, because the force of the enemy was daily diminishing by the desertion of his militia and Indians.

But I thought myself bound to delay, till I had possessed myself of every possible means of insuring success, from a consideration of what would be the consequences of a defeat.

The army would have been destroyed; if not by the tomahawk of the Indians, they must, after a defeat, have perished for want of supplies. A defeat would have been the signal for all the hordes of savages in the surrounding wilderness, to fall upon the unsuccessful troops. Every path would have been filled with these remorseless warriours. But it was not only the fate of the army that I anticipated on such an event; the horrours that it would let loose on the neighbouring country, and throughout our extensive borders, were presented to my mind. I knew,

that if the army I commanded were beaten in battle, there would be nothing to restrain the ravages of that part of our enemy, which, when a battle is decided in their favour, makes the vanquished, and their defenceless country and people, their prey.

In the ungenerous letter which colonel Cass wrote to the government, (and which, as I think, was most unwarrantably published) he seems to think, that these are philanthropic considerations, unworthy a soldier. But, Sir, though brought up in the field, and though I have seen something of the horrours of war, I am not yet such a *soldier*, as that I can think of such scenes with indifference. When I considered what would be the condition of the territory, over which I had so long presided, and over which I was then Governour, in case the force I commanded should be beaten in battle, and the inhabitants be left to the mercy of the savages, without any stipulation or force for their protection, I thought I should deserve the heaviest curses, if I risked a battle, before I had taken every means in my power to insure victory.

These were the considerations, that induced me to resist the urgency of my officers to move to the attack of Malden, till the eighth of August. It had been ascertained on the sixth, that the cannon would be ready on the eighth; and on the sixth I issued an order for the army to prepare to move to the attack on the eighth. Every thing was in readiness for the enterprise on the seventh. But on that evening, I

crossed with the whole army to Detroit, except a detachment of about three hundred men, under major Denny, which was left intrenched at Sandwich, and which was also moved over on the eleventh.

This retreat from the enemy's shore is one of the acts of treason, cowardice, and unofficer-like conduct, of which I am accused. I proceed to submit to your consideration my answer to this accusation, and the reasons which then governed my conduct, and which I yet believe to have been correct.

About the first of August, as appears by my letter of the fourth, I received an account of the fall of Michilimackinac. Lieutenant Hanks, with his men and some Indians, had arrived at my encampment. The effect of this great misfortune was immediately seen and felt in the vicinity of my post. The Wyandot Indians settled at Brownstown, who had previously shewn the most friendly dispositions, and given the strongest assurances of their neutrality, joined the British. For though they passed over under the pretence of having been made prisoners, the circumstances which then occurred left no doubt but that they had formed an alliance with the enemy. This procedure of this tribe of Indians, was not only evidence of their own, but of the defection of the surrounding nations, who are all united by some sort of confederacy, in which the Wyandots have a superiour influence, which is acknowledged by the other tribes, speaking of them as their *fathers*. When, therefore,

I learned that this nation had joined the standard of the enemy, I knew that the Chippeways, Ottaways, Pottawattamies, Munsees, the Shawanees, Senekas, and other tribes, who altogether could furnish between two and three thousand warriours, would also be an addition to his force.

At the same time I received intelligence, as appears by another letter of mine to the Secretary at War of the same date, (fourth of August,) that a British officer, with fifty-five regular soldiers and two brass field pieces, had landed on the west part of lake Ontario, had penetrated to the head waters of the river Le Trench, and was collecting the militia and Indians in that quarter to lead them against my army. From the information I had received, I had reason to think, and so I mention in my letter to the Secretary, his force would amount to six or seven hundred. The fall of Michilimackinac also changed the disposition of the inhabitants of Canada, and from the time that accounts were received of that event, there were no more of their militia came over to us. I had also been informed of the arrival of the British colonel Proctor at Malden, and it was generally believed, that he had brought with him some reinforcements, as well naval as military. To the enemy's naval force I had nothing to oppose. By it, the enemy might command the lake; obtain his supplies without the least interruption; transport his troops at his pleasure, and co-operate with land movements on the margin of the waters. I had also intercepted a letter from a

Mr. Mac Kenzie, at Fort William, to a Mr. Mac Intosh, at Sandwich, dated the nineteenth of July, from which the following are extracts:

"The declaration of war reached us on the six-
"teenth instant, but we are neither astonished nor
"alarmed. Our agents ordered a general muster, which
"amounted to twelve hundred, exclusive of several
"hundred of the natives. We are now equal, in all,
"to sixteen or seventeen hundred strong. One of
"our gentlemen started on the seventeenth, with
"several light canoes, for the interiour country, to
"rouse the natives to activity, which is not hard to
"do on the present occasion. We likewise despatch-
"ed messengers in all directions with the news. I
"have not the least doubt but our force will, in ten
"days hence, amount to at least five thousand effec-
"tive men. Our young gentlemen and engagees
"offered most handsomely to march immediately for
"Michilimackinac. Our chief, Mr. Shaw, expressed
"his gratitude, and drafted one hundred—they are to
"proceed this evening for St. Joseph's. He takes
"about as many Indians. Could the vessel contain
"them, he might have had four thousand more. It
"now depends on what accounts we receive from St.
"Joseph's, whether these numerous tribes from the
"interiour will proceed to St. Joseph's or not.

At the time that this intercepted letter fell into my hands, I was informed by lieutenant Hanks, that before he left Michilimackinac, several agents of the

north-west territory had arrived at that post, after its surrender, from Fort William, on the north side of lake Superiour, who stated, that a large force of Canadians and Indians were collected at Fort William, ready to descend the lakes, and that there was also a force of the same description, collected at the outlet of lake Superiour. I was further informed by lieutenant Hanks, that immediately after the surrender of Michilimackinac, which was on the eighteenth of July, the British commander had sent an express to Little York; and it was supposed, that on the return of the express, all the forces which had been collected and were collecting in the northern regions, would be ordered to Malden. The death of lieutenant Hanks deprives me of the benefit of his testimony. But this is sufficiently supplied by the evidence of Mr. Stone, and doctor Day, gentlemen who were at Michilimackinac when it surrendered, and who accompanied lieutenant Hanks to my head quarters at Sandwich, and doctor Day was present when lieutenant Hanks made the communication to me.

It may be said, that this information ought not to have had any influence upon my conduct, because the northern Indians could not, and in fact did not arrive in a great length of time.

I presume that no testimony is wanting to prove to this Court, that from the points where they were collected, they might have descended in a very few days. The savages of our country have an advan-

tage of all other troops, in the celerity and facility with which they make their movements. These too, were to be aided by the means of the north-west company, which were particularly adapted to transportation, from the nature of their trade upon the waters of the lakes.

As to the fact, that the northern savages did not arrive at Malden till long after the surrender.———

The testimony of captain Eastman is, that he remained at Detroit twenty-four days after the capitulation; that the Sagganau Indians, with about sixty warriours, arrived three days after the surrender; that the Michilimackinac Indians, with about eleven or twelve hundred warriours arrived about the tenth or eleventh of September. It may be well to remark here, how formidable this force proved to be, although it was but a small portion of that which would have come, had not Detroit been surrendered. But can it be concluded that this force would not have arrived earlier, had not intelligence of the fall of my army reached them, which it must have done a few days after the event happened? When information of so many adverse circumstances had reached me from various quarters, the fate of my army appeared inevitable. I had but one of two courses to pursue, and either seemed to me almost a desperate alternative. I must either advance or retreat. If I had seen nothing that I was to regard, but the power of the enemy, I had no doubt but that I ought to have

adopted the former expedient. I was obliged to consider the effect a retreat would have in my own camp. The young and inexperienced officers I had under my command, who could see no danger that was not immediately before their eyes; who thought and said that they were very brave, but with a few exceptions, do not know it to this day from any trials of their courage; who despised all precaution, and thought all generalship consisted in inconsiderate and impetuous advances—I knew well, would pursue the conduct which they afterwards did, and, by representing a retreat as proceeding from the most unworthy and unjustifiable motives, destroy the efficiency of the army, by robbing me of its confidence. The cabals, which had risen to such a height as to mature a plan of mutiny, in which my chief officers were to be the *ringleaders*, could not be entirely concealed from me; although, till I saw the confession published to the world, by one of the conspirators, I did not know the extent of their design.

Under these awful circumstances, dangerous as the attempt on Malden appeared to me to be, I thought it might be less so, than a retreat. I determined to attack Malden, and on the sixth of August issued orders to have every thing prepared for the movement of the army on the eighth. And, Gentlemen, there is no part of my conduct, since I have been a soldier, that I reflect upon with so much self conviction of errour, as I do upon this.

I look back with regret upon the moment when I yielded to the councils of the inexperienced officers I commanded, and determined to make an attempt, which my own judgment did not approve, which was contrary to all military knowledge, and which even success might not justify. I thought, however, it was possible, that if I were successful, and should possess myself of the enemy's fortress, I might possibly maintain myself there for some short time; and in that time I hoped I might have some succour and security from my own country, and her armies, that I had been led to expect would be operating below me.

On the seventh of August every thing was in readiness for the intended movement, but on that day at about one o'clock, an express arrived with letters to me from the commanding officers on the Niagara frontier, two from major-general Hall, and the other from general P. B. Porter. These letters were sent to me by express, to inform me, that a large force from the neighbourhood of Niagara were moving towards my army. But what was more decisive in its influence on my measures, was, that I learned from those letters, that I was not to expect that these movements of the enemy were to be checked, or that my army would be sustained, by any operations against the enemy in any quarter. I found that the invasion of Canada, and the whole war, was to be carried on by the three hundred regular troops under colonel Miller, and the twelve or fourteen hundred militia, which had been placed under my command. I must

here again beg leave to turn the attention of the Court Martial to the correspondence between the Secretary at War and myself, to remind the Court Martial of the reasons I had to expect supplies, assistance, and co-operation, when I took the command of the north-western army. When I received these letters from generals Hall and Porter, my situation became embarrassing and distressing to a great degree. I had but a few hours before, with what reluctance appears from the testimony of general Cass, yielded to importunities of my officers, and given them expectation, that I would lead the army against Malden. I had issued orders for making the necessary preparations, and fixed a time for the movement. I knew well what would be the effect of disappointing the expectations which those measures had raised. But as general Mac Arthur has testified, I told him, as commander of that army, I felt myself *responsible* for its *movements*, and its *fate*. Under an awful sense of that responsibility, I determined to recross the river, with the greater part of the army. In making this movement, I had no design of relinquishing the attack of Malden. My intention was to take post at Detroit, and there to wait until some naval force on the lake, and a co-operation from below, which, from the beginning, I had relied upon, and which the letters I had received from generals Hall and Porter gave me reason to expect, would commence at some future but probably distant period, afforded some hopes of success, and of advantage from success. My further intention was to concen-

trate my forces at Detroit, that I might from thence open and secure my communication with the state of Ohio; upon which, in my judgment, the salvation of the army depended. This consideration had so much influence on my measures, not only at this time, but throughout the campaign, and in the final surrender, that it will be proper to present it to the Court, in such a view, as that they may judge of its importance.

From Urbana to the Miami of the lake, is a perfect wilderness. Through this *wilderness*, a distance of a hundred and twenty miles, and through a country of which the Indians were the inhabitants and proprietors, the army had to cut a road, when they advanced; and it was the only road by which supplies of any kind could be received. From the Miami to the settlements on the Detroit river, the country is little better than a wilderness, there being only two or three little settlements. Along the Detroit river the country is partially cleared and cultivated. The improvements extend from half a mile to a mile back from the river, and in part of these improvements, on the margin of the streights, is the road to the town of Detroit. The whole country from Urbana to the town of Detroit is filled with savages, all of whom, with very unimportant exceptions, became hostile to us, and infested every part of the road which was not protected by an armed force. From the Miami to Detroit, a distance of seventy-two miles, the road runs so near the waters of lake

Erie, and of the streights, that the enemy having the command of those waters, could, with the greatest facility, transport from their shore, and from one point to another, detachments to intercept the communication. Their vessels too, would always afford them a secure retreat, in case of disaster. There were, in the whole Michigan territory, less than five thousand white inhabitants; about two thousand of whom were settled along the Detroit river. The soil, though fertile, was but little cultivated: the inhabitants greatly relying for their support upon the supplies of fish and venison, which the woods and waters afforded. The territory has never furnished sufficient provisions for its own inhabitants; there are annually, as appears from the testimony before you, large quantities of pork and beef brought in from the state of Ohio; and, notwithstanding the testimony of some of the witnesses, I assert, that at the time the army was in that quarter, they could not have taken the necessary supplies from the country for any length of time, without distressing the inhabitants. It has been proved, that even in time of peace the few troops who were stationed at Detroit were fed by supplies from Ohio. The country must afford insufficient provisions for an army, or there could be no necessity for furnishing general Harrison from the western states, at the immense expense, which his supplies have cost. The testimony of general Mac Arthur affords some evidence of the state of the country in respect to provisions. He stated that from the morning of the fourteenth of August, when he marched

from Fort Detroit with a detachment, till the sixteenth, when they met with and killed an ox, in a march of near thirty miles, he saw nothing that was food for man, except some unripe corn and some honey. The opposite shores of the enemy were not more productive in supplies. The whole of the country bordering on the streights and on the lake, is a wilderness, except the settlement at Amherstburgh, and a very thin population on the banks of the Detroit river, and a small place on lake Erie, known by the name of the New-settlement. Above, on the river Trench, at about the distance of sixty miles, is the most fruitful and valuable part of the country. Independent of these settlements, which had been exhausted by the two armies, the whole is wilderness. After the fall of Michilimackinac, when all the hives of northern Indians became hostile, and were let loose upon us, when the north-west company, as appears by the letter of Mr. Mac Kenzie, had arrayed against us their numerous retainers, and when the navigation of the upper as well as of the lower lakes was free to the enemy, no supplies could have been obtained from the river Trench, or the bordering country.

It must be remarked, that from the time the army arrived at Detroit, not one pound of provisions had been received. From the moment the declaration of war was known to the enemy, he had intercepted the only line of communication, and thus cut off all supplies.

It appears from a return made on the day the army arrived at Detroit, and which is mentioned in the minutes of a council of war, held on the ninth, that there were then in store

125,000 rations of flour, and
70,666 rations of meat.

This stock, as it was never replenished, must have been proportionately exhausted, at the time of the retreat from Canada, and at the time of the final surrender. And, indeed, would have been entirely so, had we not drawn, as far as we could, our supplies from the country, which every day became the more stripped, and the less able to afford them.

A return made to me by the contractor, on the twenty-fifth of July, shews not only the quantity of provisions on hand at that date, but it shews, by a comparison with the return of the ninth of the same month, the rate at which the provisions were consumed. This return has been proved and read in evidence. It is as follows: "Provisions on hand at "Fort Detroit, twenty-fifth of July, eighteen hundred "and twelve—

" 70,000 rations flour,
" 21,000 salted meat,
" 100,000 whiskey."

It has been said by generals Cass and Mac Arthur, and by other witnesses, that they never heard com-

plaints of a want of provision. This is certainly true. There was not, previously to the surrender, an actual want or deficiency of provisions. Our stores were not then entirely exhausted; but there was a certainty that they would soon be so.

Such then was my situation when I determined to retreat from Canada. I had above me hordes of hostile savages. I had below me an enemy in a fortress, which I believed to be a work of strength, and sufficiently manned for its defence. I found that he had been left at liberty to augment his force, by drawing his troops from all other points. I commanded an army, the troops of which (except a few regulars of the fourth regiment) had no experience, and had never been tried; and this army was officered by men, the chief of whom had not hesitated to express, in the most indecent terms, his want of confidence in me. I was told, that I must not expect any co-operation or assistance; I saw that my provisions would be soon exhausted, and that neither my own nor the enemy's country would afford supplies for any length of time. I saw that my only communication was cut off, and unless it were opened the army would be subdued by want.

Under these circumstances, I determined to recross the river, take the principal part of the army, not with an intent, as I have said, to relinquish the enterprise against Malden and the Upper Province, but to wait for a co-operation and assistance, which might afford more favourable prospects, and in the mean

time, which I considered a duty of the first importance, to open the only communication by which I could obtain supplies. An attack on Malden was an alternative, which, as I have said, presented itself to my mind. It was one which I had the most powerful inducements to adopt. I well knew what rewards of honour and glory awaited an achievement, which my country had been led to expect with so much certainty and anxiety. I knew what were the expectations of my officers, and what resentment a disappointment would create. I knew a retrograde movement would expose me to censures, and to the malice of my enemies; but in deliberating on this alternative, I could not but take into view the possibility of a defeat in the attempt, and the consequences which, as I have before mentioned, would result not only to the army, but to the people of the territory. A more decisive consideration, however, induced me to reject this alternative. I then felt confident, and I do now feel most confident, that if I had attacked Malden, and had been successful, it would have been but a useless waste of blood. It would have been utterly impossible to have maintained the fortress. It must have fallen for want of supplies. It must be remembered, that the waters of the lakes were shut against us. There could have been no possible communication with the fortress, but by the road which I had cut through the wilderness. How was that road to have been kept open?

Most probably, after an engagement, or after carrying the works by storm, I could have taken into

Malden but a few hundred men. Could I have made sufficient detachments from the garrison, to have performed this service? Let it be remembered, that generals Mac Arthur and Cass censured me for sending so small a detachment as two hundred men in this duty; and thought the force ought to have been double or equal to one of their regiments. And when colonel Miller, with six hundred men, two hundred and eighty of whom were almost the whole of the regular force under my command, had defeated the enemy near Maguago, he thought it necessary to send to me for a reinforcement of one hundred and fifty, or two hundred, to enable him to secure his passage to and from the river Raisin, though his loss in the battle did not exceed eighty, and though he knew at the river Raisin he was to be joined by the detachments under captain Brush, and the companies under captains Campbell and Rowland.

If the road could have been opened, still no supplies could have passed into the fort, without crossing the water, and on that the British had a force, to which we had nothing to oppose. If we had possessed the fort, it would have been pressed by the north-west company, and its retainers from the north, with all the hosts of savages of those regions. A British force no doubt would have approached it from lake Ontario, by the river Le Trench. On the water it would have been attacked by the naval force, and all this it must have encountered, without the possibility of obtaining supplies, and without the least prospect of relief or assistance.

My judgment, Mr. President, may mislead me now, as it did then; but yet I think, that if I had led the army I commanded to the conquest of Malden, under such circumstances as I have stated, it would have been as great a crime as any of which I am accused. Certain I am, that I should have wanted that consciousness of having acted from the purest motives, and according to my best judgment, which has been my only consolation in all I have suffered.

If it be true, as I have stated, and as I think the testimony proves, that my army had not provisions for any length of time, and that neither my own, nor the enemy's country would have been capable of furnishing them, I need hardly state to the members of this tribunal, how important it was for me to keep open the road I had made through the wilderness, the only communication by which supplies could approach me.

In modern warfare, the first great object of each contending party, is the resources of his enemy. The fate of armies is found to depend upon the abundance of their resources, on their security, and in the facility of keeping up a communication with them. It has become a principle to manœuvre in such a manner, as to cover the places from whence supplies may be drawn; not to go far from them, but with great caution, and never to cease preserving with them those connections, in which the strength of an army consists, and on which its success depends. These are the sentiments of a

modern military writer of great celebrity. The experience of all military movements in latter times, proves their correctness. I always felt the force of them. It was a great violation of these principles, and therefore as I considered a great mistake, to march the army I commanded, after the war had commenced, to Detroit, leaving a British garrison eighteen miles in our rear, directly upon our line of communication, which from its proximity to the lake, and his force upon the water, the enemy had the means of intercepting with peculiar facility. But the orders I received in the letter of the Secretary of War, which announced to me the declaration of war, were positive upon this point. They left me no discretion. I was to march to Detroit, and there to wait for further orders. I had seen the necessity of keeping open the communication, when I was on the march, and therefore I built and garrisoned blockhouses on the road. When in the enemy's country, I felt every day, more strongly, the force of this necessity, and therefore detached major Van Horn on that service. Whether that was a proper detachment, as it is made a separate charge, will be a subject of separate consideration, in a subsequent part of my defence. After the defeat of major Van Horn, and when I found the situation of my army immediately before I left Sandwich, such as I have before described, I was perfectly convinced that no success, not even the capture of Malden, could save it from eventual destruction, if my communication with Ohio was not opened.

The Court will recollect, that general Mac Arthur and general Cass have stated in their testimony, that when they objected to the sufficiency of the force I detached under major Van Horn, they each recommended that I should send him with his regiment on that duty. This shews what force, in their estimation, was necessary for the purpose. What force colonel Miller thought necessary, I have already stated. If these gentlemen were correct on this point, my army could not be in a proper situation, when I must have stretched back with nearly half and the most efficient part of my command, to insure me supplies. It must be recollected also, that it was not a temporary detachment, that would have answered any purpose. I must have kept always separated from the army, a sufficient force to have kept open the road from Detroit to Ohio, a distance of about two hundred miles. I do not believe, that after the fall of Michilimackinac, when the savages became arrayed against us, and infested every part of the road, that my whole force would have been sufficient to have protected so extensive a line.

These, Gentlemen, were the grounds on which I made a retrograde movement, with a part of the army, to Detroit. It was from thence to open the only channel, through which it could derive the means of its existence. I repeat, my judgment may have misled me. If it did, it continues yet to mislead me; for every day that I have lived I have become more confident, that I did right to leave the enemy's coun-

try. Had I followed the dictates of my own judgment, I should have made my retreat to the Miami and there waited for co-operation and assistance. The distance from thence to the Ohio would have been comparatively short; I should have had no enemy in my rear but scattering savages, and he could not then have availed himself of the great advantage he derived from the command of the waters.

For the reason that I did not do so, let me appeal to the testimony of the two officers next in command.

When I proposed this measure to colonel Cass, his answer was, that if I did under the then existing circumstances, every man of the Ohio volunteers would leave me. His language in substance was, as he states it himself, that the volunteers would retreat with me, if they thought a retreat necessary. But as they undertook to judge, that it was not then necessary, they would leave me and not a man would retreat under my command. Colonel Cass's testimony on this subject is in the following words: "I recollect a "conversation with general Hull, after the retreat "from Canada, and before we went to the river Rai- "sin, in which general Hull suggested, that as he "heard of no co-operation from below, it might be "necessary to take post at the Miami. I think I told "general Hull, that, if under existing circumstances, "he took such a step, the Ohio militia would desert "him to a man. Whether I told general Hull so or "not, I am confident it would have been the case."

It may be well to remark, that this testimony of colonel Cass is evidence of the insubordination that was among the troops. By whom, and by what means, it had been encouraged, the Court may judge.

Upon this part of the subject, that is to say, the retreat from Canada, I have but a few words more to say. I retreated for the purpose of being enabled to take effective measures for opening my communication. The importance of accomplishing this design, I have endeavoured to shew. But it seems that the government, or whoever it may have been that drew the charges, that are now before you, were also sensible of this importance; for one of the accusations, that I am to answer, is, that I did not keep open this communication, and yet the measure I took to accomplish this object, and which was the only measure that afforded any prospect of success, that is to say, withdrawing the army from Canada, is also made a ground of crimination.

I beg the Court to notice, that these reasons for the retreat are such as I assigned for it at the time, as well as now. For the evidence of this I refer to my letters to the Secretary at War of the fourth and eighth of August. My letter to governour Scott, of the ninth of August, and my letters to governour Meigs and colonel Wells of the eleventh of August, all shew, that I abandoned Canada because I had ascertained that I should soon be surrounded by an

overwhelming force; because my communication, if I remained where I was, would inevitably be cut off; and because I found that the few regulars and militia I commanded, were to be left to carry on, without any assistance or co-operation, the offensive war, which the United States had declared against one of the most powerful nations on earth.

It appears, that the view which my officers had of our situation, about the time of the retreat and surrender, was very different from what it would appear to have been, from the testimony they have given before you; at least, this observation applies to general Cass. The testimony of Mr. Silliman, (the general's brother-in-law,) of Mr. Mills, and of Mr. Converse, his neighbour, proves, that in letters written by him, at the times to which his testimony relates, he had different sentiments from those he has here expressed.

In a letter of the third of August, at which time we were in possession of the enemy's territory, and all the resources that might be drawn from thence, general Cass tells Mr. Silliman, that provisions would become necessary for the existence of the troops.

In a letter to Mr. Silliman after the fall of Michilimackinac, general Cass says, that the impression made by the fall of Michilimackinac could scarcely be conceived. In the same, or some other letter, according

to the testimony of Mr. Silliman, general Cass pressed him to use his influence to procure reinforcements for the army, and expresses his surprise, that we were left without co-operation, by putting to his correspondent the following interrogation: "Is there nothing "to be done in the lower end of the lakes, to make a "diversion in our favour?" In a letter from general Cass to the same gentleman, dated on the twelfth of August, general Cass says, "think our situation as "bad as you may, it is still worse."

It is most unfortunate for me, that I have in the course of this prosecution so often to feel the want of documents. I want to prove the contents of a memorial, which was filed on record in the War Department. I ask for the record, and it is lost. I am impeached for not having regularly issued orders to the army. The witnesses who are to support this charge prove, that there were orderly books in which my orders were entered; but they have either been lost, or what is more extraordinary, left at home. Captain Mac Commick has an orderly book, but when he was called here as a witness, he left his book behind him. Other officers seem very unaccountably to have thought the order to ship their baggage at the Miami included their orderly books, and they have been lost by that means. And now these letters from general Cass to Mr. Silliman, the contents of which it might be so important to me to contrast with the General's testimony, it appears, were intrusted to the General's *wife*, and they too have been lost.

But I ask the Court, do not even the slender accounts which we have had of the contents of these letters shew, that general Cass, at the time they were written, did believe that the army would be in want of provisions?—that reinforcements were necessary?—that the fall of Michilimackinac was to have a decisive operation on the fate of the army?—that our hopes rested on co-operation from below, and that the situation of the army was critical in the extreme?—If these were general Cass's sentiments, when he wrote the letters, I must leave it to the Court to reconcile them to the testimony he has given.

The surrender of the fortress of Detroit, and of the forces in the Michigan territory under my command, is another charge, against which I am now to defend myself. I beg the court to observe, that the course I am pursuing, is to examine, in the first instance, the propriety or necessity of these principal measures; the circumstances attending their accomplishment being ground of distinct accusation, I propose to give them distinct considerations.

As to the point, on which I am now about to make my defence, I must beg the Court to bear in mind what I have said in relation to the delay in attacking Malden, and to recrossing the river; much of what I have said upon these subjects will be applicable to the charge now under consideration. The same facts are reiterated in the specifications in so many different forms, that it is difficult to analyze them, and might

excuse repetition. But I shall endeavour, as much as possible, to avoid trespassing on the patience of the Court; and shall not repeat what I have already said, further than may be absolutely necessary to make myself clearly understood.

The extent and state of the force under my command, at the time of the attack on the fifteenth and sixteenth of August, must be ascertained, before my conduct can be duly appreciated. The detachments under colonels Mac Arthur and Cass, consisting of four hundred of the most effective men of their regiments, were absent on the expedition to the river Raisin.

On the morning of the sixteenth, the brigade major Jessup, as appears by his cross examination, had, by my order, made a report of the effective men under my command. He stated the number, as appears by a document before you, in the three Ohio regiments, to be seven hundred, including the Michigan legion and waggoners, but not the Michigan militia. The armed inhabitants which some of the witnesses have mentioned, I presume were not intended to be included, and indeed should not have been. For although it may have been agreeable to the disposition of some who have testified in this cause, to mention them here, that they might swell my numbers in the eyes of the Court, yet I believe it will not be thought, that I ought to have taken them into calculation in estimating my means of defence. In the field they were

only likely to be the first to set an example of disorder, and in a siege they would only have increased the consumption of provisions.

Major Jessup says, that on the fifteenth he received an estimate from one of the adjutants of the number of men fit for duty. He thinks it exceeded one thousand. This estimate was not delivered to me, but was given to general Cass the day after the battle, for what purpose does not appear. I wish general Cass had produced it on this occasion.

Of the one thousand, if there were so many effective, only three hundred and twenty were regulars; that being major Snelling's estimate of the effective force of the fourth regiment on the day of the surrender. The rest of this thousand consisted of the Ohio volunteers and Michigan militia. In my letters to the government, and in my official account of the unfortunate termination of the expedition under my command, I have always spoken of the zeal and bravery of these troops, in terms of respect; and I still think they merited all I have said of them in these respects. Yet, in estimating their probable services in an arduous conflict, I could not but consider their real character. My experience in the revolutionary war had fixed in my mind a mistrust of the services of undisciplined militia, however ardent and valorous they might by language, and even by actions, when not before the enemy, make themselves appear. Indeed

the organization of the militia corps I had with me was particularly calculated to create distrust with respect to them. All their officers held their commissions in virtue of an election, mediate or immediate, of the men of whom they were the nominal commanders. My second in command, colonel Mac Arthur, has prefaced his testimony, by telling you that at such a time he was elected colonel.

Colonel Van Horn was elected major; Mr. Mac Commick was elected a lieutenant. From what stations or what occupations these gentlemen were elected to high military rank, I do not know. It would seem, however, that notwithstanding all the experience they have had in the field, they have not yet learned even military language; or forgotten what were probably the phrases of their former occupations.

General Mac Arthur, in describing the disposition he intended to make of his regiment in case of an attack, spoke as he would of the gate of a cow-pen—of swinging it into the rear line of a hollow square. And most of the witnesses against me have spoken of the balance of a detachment, as they would of the foot of an account in a shop book. Elected officers can never be calculated upon as great disciplinarians. In every station, the elected will be unwilling to incur the displeasure of the electors. Indeed, he will often be found to court their favour, by a familiarity and condescension, which are totally incompatible

with military discipline. The man who votes his officer his commission, instead of being implicitly obedient, as every soldier ought to be, will be disposed to question and consider the propriety of the officer's conduct, before he acts. This system has not only an injurious effect upon the soldiers, but it has a retro-active effect upon the officers. They, knowing how far they are responsible to their electors, and what deference is due from them to a majority of votes, are under the influence of their own feelings, in intercourse with their superiours.

The Court must have observed, with what confidence, the officers who have testified against me, have pronounced every thing to have been done wrong, that was not done according to their advice. They seem to have thought, that when a Council of War was called, it was to be governed by the laws of a town meeting; and that a general was absolutely bound by the voice of a majority.

The testimony of major Van Horn is a remarkable elucidation of the ideas of some of my officers in this respect. He seems to think, that I was guilty of great violation of duty, in not being careful to ascertain accurately the votes of the members then present. Though, as was actually the case, I had omitted to take the vote of a gentleman, whose opinions coincided with my own.

Mr. President, my ideas of a Council of War are, that it is called to advise the responsible officer as to

any question which he may think proper to submit to its members; that he ought to hear and weigh, with what deliberation circumstances will admit, their sentiments and opinions. But that after all, he is bound to act according to the dictates of his own judgment, be the opinions of his officers what they may. And inasmuch, as the advice of a council will not, in all cases, justify misconduct, I hope it will not be considered, that a measure, although it should have been wrong, or turned out unfortunate, must be condemned, because it was not sanctioned by a majority of votes.

These are considerations, which I think it necessary to impress strongly upon the minds of the Court. It unfortunately happened, that on most questions, which I submitted to the deliberation of my officers, their opinion and mine did not coincide, and many of the witnesses *seem* to think, that therefore they must be condemned. But such a principle will not, I hope, be adopted by this Court. The decisions of the councils should have the less influence, because it must be recollected, that I could not, with the exception only of the officers of the fourth regiment, call for the advice of any one who had seen the least service, or had the least experience. For though most of the witnesses who have been produced on the part of the government, have appeared with the titles and badges of high military rank, yet it is certain, that most of these gentlemen when they joined my army, knew no more of the duties of a soldier

than was to be learned from militia musters and parades about their own homes. What services they may have since performed to entitle them to the honours they have attained, I am ignorant; and only hope, that their elevated rank (as it ought to be presumed it was not intended it should,) will not give them any other weight, than they would have had, if they had remained in their former subordinate situations until they had given their testimony against me.

These observations are made, in reference to the principal part of the troops I had under my command; and to shew, that although, as men, they might be brave and patriotic, as I have always believed they were, and as I have always spoken both of the officers and soldiers, yet from the manner of their organization, and from their want of discipline and experience, they were not that kind of force upon which a commander could feel, in an arduous conflict, the firmest reliance. So far as we had any opportunity of judging from trial, this want of confidence in forces of this description was justified.

The expedition under major Van Horn was the only instance in which the volunteers acted by themselves in any affair of consequence; for the rencontre at the Aux Canard bridge, (although both the officers and men behaved well) was but a skirmish, which could hardly be a test either of courage or discipline. The detachment under major Van Horn, as *he* has testified, were not surprised. He had fully prepared

them, according to his statement, to expect their foe, and yet his party was disordered by the first fire of the enemy. Notwithstanding all the gallant exertions which, as he has stated, he made, he was unable to rally them, or to prevent their flying in confusion in the very first moments of attack by nothing but savages.

In submitting to your consideration, Gentlemen, the state of the forces under my command, I must not omit, painful as it is to me, to advert to the unhappy terms in which I was with my officers. They took no pains to conceal what they have here testified to, that they had lost all confidence in me; many of them manifested it, as appears from their own testimony, by the most indecent conduct and expressions.

The Court must recollect the language, which I forbear to repeat, that my second in command, colonel Mac Arthur (*now Brigadier General Mac Arthur,*) represents that he addressed to me, when I proposed to him to remain with his regiment at Sandwich. Let it be remembered too, that the Brigadier General has stated, that when we were in the face of the enemy, and he might hourly be expected to be called to battle, he used this language with an expectation, that he should be arrested: with an *expectation*, that at such a moment, he would be put in a situation that he could not be called upon to use his sword. Brigadier General Mac Arthur has said, that these expressions were extorted from him, by insinuations of cow-

ardice. I meant no such insinuation. His declaration, that he felt his single self able to carry the fortress at Sandwich against any garrison, left no room to doubt *his* own good opinion of *his* prowess. When general Mac Arthur addressed such language to me, I had never seen any thing that would have warranted such an insinuation as he conceives I made. But if any thing would justify an impeachment of that officer's courage, it would be, *such conduct* at *such* a *time*. It may be thought, that I ought to have arrested general Mac Arthur. It is not one of the charges against me that I did not; and therefore I shall not digress further from the course of my defence, than to say, the peculiarity of my situation alone prevented my doing it.

If I had taken such a step, I have no doubt his men, who had elected him a colonel, would have turned their arms against me, with as much alacrity as they professed to use them against the enemy. I might, and believe I should have had a civil war in my camp. But to shew what was the disposition of my officers towards me, I have only to refer the Court, once more to Colonel Cass's (*now Brigadier General Cass*) letter to the Government, of the tenth of September, in which he states, that *he*, and *others*, had formed a conspiracy to wrest the command from me. Whether this was, or was not, a treasonable design, is not for me to determine. But what confidence could I place in officers, whose conduct had been such as they themselves have described?

I know, Mr. President, that my letters to the Secretary at War, and my official account of the surrender, may be appealed to on this subject. I wish they may be—what I have written of the volunteers and their officers is just, and what I yet say. They were brave, zealous men. It is my pride, that in the very hour of misfortune, I had the magnanimity to give them all the credit that was due to them, and to take upon myself the whole responsibility of a measure which I knew would be the subject of so much censure. Would, sir, that I could have observed a little of the same spirit in my accusers! That they had been willing to take some share of the blame that is justly due to them! And that they had not, in the triumph of their own elevation on my depression, represented, with the most uncharitable bitterness, a man whose smiles they once courted.

I must be pardoned, Mr. President, for yielding to my feelings, in these digressions. I have stated to you, the numbers, nature, and situation, of the force which I had to oppose to the enemy. I shall now state what force he brought, or might bring, against me. I say, Gentlemen, *might bring*, because it was that consideration which induced the surrender, and not the force which was actually landed on the American shore on the morning of the sixteenth. It is possible, that I might have met and repelled that force, and if I had had no farther to look than to the event of a contest at that time, I should have trusted to the issue of a battle. I beg leave first to examine,

what was the extent of the enemy's force landed at Spring Wells on the morning of the sixteenth.

Major Snelling, who says he made some attempt to count the enemy's force, supposes that there were no more than seven hundred and fifty whites, of whom one third were regulars, and the rest militia and volunteers—the number of Indians he could not ascertain. As he was going to his lodgings, after having satisfied himself about the white force, he saw, he says, some hundred and fifty Indians in array. He does admit, however, that there were some more in the back of the town, killing horses, and stealing cattle. But it is very evident, that Major Snelling, as well as other witnesses, meant to convey to the Court an impression, that they considered the Indian force very insignificant, both as to numbers and effect. And yet it is very extraordinary, that when my conduct would be censurable, in proportion as the Indian force in the power of the British might be considered numerous and effective, their numbers and powers are augmented. I am charged with having sent out too small a detachment under major Van Horn. To prove that I did so, the major has testified, that according to the information he received, three hundred Indians crossed from the British side the day his party was routed. It is necessary to heighten my criminality, that in one instance the British Indian force should appear to be very small and very insignificant, and in the other, very numerous, and very formidable. It is well known, however, that all the savages in that

quarter had immediately after the fall of Michili mackinac, joined the British. I had had in council, between the fourteenth and twentieth of July, the chiefs of nine nations, whose warriours amounted to between two and three thousand, or more. Is it not extremely improbable, that with a large force of this nature at their disposal, the British should have employed but a small part of it in their enterprise against Detroit? Is it not rather to be presumed, that in an undertaking in which they must have been very ambitious of success, they should have employed all their disposable force, whether white or red?

The force brought against me, I am very confident, was not less than one thousand whites, and at least as many savage warriours.

But it was not only against this force, on our own shores, I was to defend myself. Their batteries from Sandwich were effectually co-operating with them, and their ships of war were ready to lend them assistance in the moment of attack, to cover their retreat, and to afford them shelter in case of defeat.

If the British, landed at Spring Wells, were not much more numerous than my own troops, I knew they must have a powerful force in reserve, which they could bring to operate upon me, either by crossing them above the town of Detroit, or by transporting them in their ships to that point, and thus attack the fort on all sides, and place my army between their fire.

I should not, however, have yielded to all these considerations, had the war I was carrying on, been only against civilized men. In that case, those only who were in the contest, would have suffered. But I knew how sanguinary and remorseless the savages would be, should my army be subdued, and the fortress be obliged to yield. The whole country would have been deluged with the blood of its inhabitants—neither women nor children would have been spared. The large detachment, which was out under the command of colonels Mac Arthur and Cass, of which I could get no intelligence, and the detachment under captain Brush, at the river Raisin, would most probably have been the victims of savage fury, which is always excited by battle, and rendered more sanguinary by victory. These appeared to me the certain and dreadful consequences of unsuccessful resistance. If, after a conflict, I should have been able for that time to have repulsed the enemy, I might have purchased fame, and have avoided all I have suffered, and what I now suffer, in being obliged thus, at my time of life, to vindicate my honour, and plead my cause before you. But at what price should I have done this? How many of the lives of the brave men I commanded, would it have cost? How many of the persons, who now appear to witness against me, might I not have sacrificed? It might, indeed, Mr. President, have given me an honourable grave—and if mine were the only life concerned, I wish it had been so, rather than that the foul crimes of which I am accused should be coupled with a name, to which my

country of late, as well as heretofore, has acknowledged some obligations.

But I had rather even that this should be. I rather stand before you accused, as I am, than have uselessly and wantonly sacrificed a single life, though it should have insured me immortal fame.

If the attack of the enemy *had* been repelled, our triumph would have been but temporary. My numbers must have been diminished by loss in battle. They would have daily lessened by the cannon of the enemy from the opposite shore. The force of the enemy, augmented as it was by reinforcements under colonel Proctor, major Chambers, and the commander in chief general Brock, would have been daily augmenting. The force from Michilimackinac and St. Joseph's, which would have amounted to several thousand savage warriours; the savages, with the addition of some hundred white men, mentioned in the intercepted letter of Mr. Mac Kenzie; collected at Fort William, would, in a few days, have descended upon us. The Canadian militia had all returned to their allegiance. The enemy's naval force and means of transportation on the lakes were augmented. There was no co-operation with my army from any quarter. The letters I had received from generals Hall and Porter had not only satisfied me that my expectations in this respect were disappointed, but that no diversion in my favour was soon to be expected. My army was in a corner, surrounded by a wil-

derness of waters, and a wilderness of woods. All communication with my country, either by land or water, cut off, my stores of provision and ammunition but sufficient for a short duration; add to all this, that at the moment of expected conflict, I received information that *a part of my own troops had gone over to the enemy, and that a larger body were about to join him.* Under such a combination and pressure of adverse circumstances, the army must have yielded in a little time, notwithstanding any temporary success. I did not think I should be justifiable or even excusable, if I risked a battle when victory could purchase no real good. And when the consequence of defeat, or even the consequences of being driven into the fort, would be to submit the whole country which I was sent to protect, and that part of my force, which was on detachment, to "the ruthless ferocity of sav-"ages, armed with the horrours of those instruments "of carnage and torture, which are known to spare "neither age nor sex."

From such calamity, I knew a capitulation would be a protection. The British, if made masters of the country without a battle, would be able to restrain their merciless allies, which they could not do after a contest, even if it should be only so far successful as to oblige us to retreat into the fort. A savage will have blood for blood, though he draws it from the veins of the defenceless—victory only heightens his inhuman thirst.

I offered a capitulation and surrendered. "I well "knew the high responsibility of the measure, and "take the whole of it upon myself. It was dictated "by a sense of duty, and a full conviction of its ex- "pediency. If aught has taken place during the "campaign, which is honourable to the army, my "officers are entitled to a large share of it. If the "last act should be disapproved, no part of the cen- "sure belongs to them."

These, Sir, are the words of my official communication of this unhappy event to the Secretary at War. I repeat them. It was, Sir, a sense of duty which drove me to the measure. It was a sense of what I owed to the protection of the inhabitants of the territory I had so long governed. I felt myself bound to sacrifice every private feeling, and in spite of themselves, to save from useless waste the blood of the brave men I commanded. Nor, Sir, will I conceal, that in the midst of the carnage that might ensue a battle, my parental feelings saw a daughter and her offspring, who were with me in the fort, bleeding under the tomahawk of a savage.

If these be considerations unworthy of a soldier, then I am without excuse. Then, indeed, you may pronounce your utmost doom. But, do not let me transmit to my posterity a name, tarnished by the foul crimes imputed to me. I say, I am as free from the sins of that black catalogue as any man who hears me. But if a propitiation be necessary, and it

must be the remnant of the life of a man, whose country has heretofore acknowledged his claims to her gratitude, and who has not ceased to deserve it—here is one that I offer. I would freely part with it, if you will not take from me, and from my family and posterity, my honour and character.

I now appeal with some confidence, to this tribunal, for their decision upon the accusations which I have hitherto considered. Was either of the acts to which the attention of the Court has been directed, in themselves, and abstractedly considered, unjustifiable, or rather (and this is the true question) was either of them so manifestly wrong, so egregiously erroneous, that it is of itself, evidence of treason, cowardice, or unofficer-like conduct? Are there not so many reasons for my conduct, in regard to these transactions, that I may be supposed to have acted honestly, though it should now appear to the Court that it was erroneously?

If an act may have proceeded from pure intentions, it would be the height of injustice and misanthropy, to impute it to bad motives.

I shall now proceed to make my defence against the other accusations. I shall endeavour to arrange them in the order of time in which the facts, by the specifications, are supposed to have occurred.

Hitherto, Mr. President, my defence has chiefly rested on documentary evidence, or upon facts of

general notoriety. As to all that follows, the charges depend entirely upon parole testimony.

It seems extraordinary, that there has not been a witness examined on the part of the prosecution who has not been promoted since he was under my command.

A great majority of the young gentlemen who have been called by the Judge Advocate, have appeared decorated with their two epaulets. These have been bestowed, and sometimes with the augmentation of a star, upon gentlemen who began their military career with my unfortunate campaign.

By what services many of these gentlemen have merited such rapid promotion, I have not learned. But if it all arises out of their achievements while under my command, I must say, that it appears to me that my expedition was more prolific of promotion, than any other unsuccessful military enterprise I ever heard of.

It cannot be, that it has been intended to give a weight to the testimony of these witnesses, by giving them ranks and honours, which it would not otherwise have had. But, Sir, when my military character and measures are to be tested by the opinions of gentlemen, with high sounding titles of military rank, I think it necessary to remind the Court, that, with the exception of a few of the younger officers, there

are none of them who have not been promoted to their high stations, without having had any military experience, and without, so far as I have heard, ever having discovered any military talents or genius.

If the opinions of witnesses on military conduct ought in any case to be listened to, (which I conceive ought not to be,) yet, I think the opinions of men of these descriptions, ought to be received with the greatest caution.

The extraordinary promotions which the witnesses against me have generally attained, I think may be accounted for by a recurrence to the fact, of which this trial has afforded the most conclusive evidence; which is, that each of the witnesses, from the generals to the youngest and lowest officer that has been called by the Judge Advocate, is himself, in his own opinion at least, a *hero.*

From general Mac Arthur, who thought himself capable of fighting a whole garrison, down to the lowest rank, every officer seems to have thought, that if he had been the commanding general, or if I had taken his advice, all would have gone well. No doubt, they have, in justice to themselves, made these representations to the government. And their rank must be considered as a reward for the great things, which they *said* they would have done, rather than to have been acquired by any actual services.

But, Gentlemen, before I proceed to examine the parole testimony, let me call your attention to another subject connected with it. I mean the indefatigable pains, which have been taken, to propagate and keep alive the most hateful prejudices against me. Sir, I believe there never was a greater outrage committed on the administration of justice, and towards an individual, than was the publication of colonel Cass's (now brigadier-general Cass,) letter to the government of the tenth of September.

That such a letter should be published, under the sanction of the administration, against a man, whom the administration was about to put upon trial for his life, I believe is a proceeding of which no country on earth has before afforded an example.

That the administration should, under such circumstances, permit the publication of such a letter as general Cass's, one that labours to represent my conduct in the most odious point of view, and takes pains to heighten the public resentment against me, by a colouring which colonel Cass could not know of his own knowledge, was true, appears to me to be a violation of every principle of justice.

The Court will please to recollect, that colonels Cass and Mac Arthur left Detroit with the detachment to the river Raisin on the fourteenth of August, and did not return to the fort till the evening of the sixteenth; of course they could not know, of their own knowledge, what passed in the interim.

No person, reading colonel Cass's letter, but would suppose, he was an eye witness of all he relates.

It is impossible to discover, that he was absent in the expedition to the river Raisin. Yet general Cass states, as if it was a matter within his own knowledge, that when the troops received orders to retreat into the fort, "one universal burst of indigna-"tion was apparent upon the receipt of this order." I beg to quote from this letter another paragraph, to shew what was the spirit with which it was written; the design of its publication I must leave the Court to infer.

"To see the whole of our men flushed with victory, "eagerly awaiting the approaching contest; to see "them afterwards hopeless, dispirited, and despond-"ing, at least five hundred shedding tears, because "they were not allowed to meet their country's foe, "and to fight their country's battles, excited sensa-"tions, which no American has ever before had."

Would not every one imagine, that colonel Cass was here describing a scene which passed before his own eyes?

Did he actually see at least five hundred men shedding tears, or does the Court believe that this is a representation of a fact which really occurred? If it were so, it is extraordinary that not a witness has testified to it. Captain Mac Commick says, he ob-

served some men shedding tears, but this falls greatly short of general Cass's five hundred. But who were these weeping troops? It is not to be presumed, that it was intended that we should believe they were the regulars; they are not commonly much given to weeping. They were not the Michigan militia, because a part of them deserted, and the rest were disposed to go over to the enemy rather than fight him. The men then who shewed this very extraordinary sensibility, must have been colonel Cass's patriotic volunteers. The same *volunteers*, who mutinied in the camp at Urbana, and would not march till they were compelled to do so by the regular troops. The same *volunteers*, who rode the officers of one of their companies on a rail. The same *volunteers*, one hundred and eighty of whom refused to cross into Canada; and the same *volunteers*, who, when they had an opportunity, under major Van Horn, to gratify their eager wishes to meet the enemy in combat, ran away at the first fire, and left their officers to be massacred.

If general Cass did not witness this scene, why did he make such a representation? There can be no other reason, than that this kind of inflated description was intended to recommend himself to the government, by representing himself and his troops in the most favourable point of view, and me in the most unfavourable, that even hyperbolical language would admit.

Sir, this is not the only means that have been resorted to, to excite and keep alive the popular

clamour against me. Others of my officers finding what favour the publication of his letter gave him, in the eyes of the administration, have seen that the same road of preferment was open to them; and the news-papers, from one end of the continent to the other, have been filled with letters concerning me, expressed in terms which neither truth, justice, nor even the laws of decorum can sanction. Down to this very time, Sir, the same system is pursued. Now, while I have been on my trial, publications have appeared in the public prints of this city, commending the principal and leading witness, for the manner in which he gave his testimony against me, that those who were to come after him might be encouraged to follow his example.

And, Sir, at this very *moment*, at the very *door* of this *building*, is hawked for sale, a work printed within this few days in sight of this capitol, entitled Views of the Campaigns of the North-western Army, in which my conduct or motives are most grossly misrepresented. Who are *they* that thirst so for my blood, and take these means to obtain it?

It is not the ostensible author of this performance. His *insignificance*, and the contemptible talents employed in the work, shew him to be too mean to have a motive of his own. I know not who may be the authors or instigators of such outrages upon justice. If such things are permitted, and can have any influence, then the *scales* ought to be *torn* from the hand

of the figure which adorns the hall wherein you sit. She ought only to be left the sword with which she is decorated, and she ought to wave that as an *emblem*, that *vengeance*, and not *justice*, is administered under this roof.

But, Gentlemen, for whatever purpose these acts may have been intended, I rely with a perfect confidence that you will rise superiour to them. If I wanted other assurance of it than that which is derived from your characters, I should have it in the patience and impartiality with which this prosecution, so far as depended on you, has been conducted.

Before I enter on an examination of the parole testimony, I must be permitted to remark, that I cannot but think that the course which has been pursued, of examining each witness in the presence of the rest, has been unfortunate for me. Till this Court decided that it should be so, I did think it was a well established rule of martial law, that the witnesses should be examined separately. The justice and propriety of this rule, I have very sensibly felt on this occasion. In a case where so much may depend upon the language or phrases in which the witnesses express themselves, it would have been desirable, that each should have been left to the necessity of selecting his own language to express his meaning. But according to the course pursued, each witness was at liberty to adopt the words, which had been used by any other witness on the same point. The

disposition of several of the witnesses to do so, has been very plainly manifested by their answering, when interrogated as to my personal behaviour, that it was the *same* as had been represented by a prior witness.

It is true, Gentlemen, that the Judge Advocate would not accept these answers, and I presume has not taken them down, but they nevertheless shew the natural disposition of the witness to borrow the words of another, and I have no doubt they have very conscientiously, and often without knowing it, borrowed ideas also.

Gentlemen, in these Courts Martial, where the members, among whom there may be great inequality of grades, are intended to be put upon an equal footing as judges, care has been taken, to avoid, as far as possible, the influence likely to arise from authority. It is on this account that the opinion of the youngest member is always first taken. And it was on the same account, as I conceive, that the rule was established, that witnesses should be examined separately, that the younger might not be influenced in his testimony by what might be said by his superiour. It would be contrary to experience of the human disposition, to suppose, that after a subaltern has heard two or three generals and officers of higher rank than himself testify, to whose authority he is perhaps subservient, or to whose good word he may have owed or expects to owe his promotion, he will

be willing to contradict what his superiours have said, or even to make a representation which will vary from theirs.

If on any case, Sir, the weight of this sort of influence could be felt on the testimony, the course pursued on this occasion would give it the fairest scope. For the witnesses seem to have been arranged and produced, in the first instance, very much according to their rank, (except colonel Miller.) After the Generals had been examined, then came the subordinates. The exception to this general course as to colonel Miller struck me as a little singular. I did not know why he should have been examined the last, particularly as he was the highest officer of the regular army which had been engaged in the campaign. He was with me during the whole time, and had the most intimate knowledge of the transactions to which the other Gentlemen testified. But when I found that colonel Miller's testimony was much less unfavourable to me than the testimony of the witnesses who had preceded him, and that he would not support them in the most material parts of their testimony, I was at no loss to account for this course of proceeding.

The next accusation which I shall consider, is specified under the charge of unofficer-like conduct, and refers to the commencement of the march of the army. It is in substance, that from the time I took the command, I omitted to exercise, inspect, train, review,

and order the troops. I cannot believe, Gentlemen, that it will be necessary for me to say much on this subject. I did expect, that if any part of my conduct could have escaped the censure of my enemies, it would have been the manner in which I led the troops through the wilderness. When it is recollected, what an extent of road it was necessary for me to cut; that a great proportion of the men were constantly employed in this duty; that those who were not so, were most generally fatigued with their turn of this laborious service, I believe the Court will think with colonel Miller, that there was neither time, nor opportunity, for that sort of discipline and exercise, which, under other circumstances, would have been proper. The commandants of regiments have testified, that, as to their respective commands, there was no omission of what was their duty in this respect. The fault charged to me is then, that in the depths of the forest, through which we were marching, I did not call off my fatigue parties, guards, and advances, and go through the ceremonies of military parade. And yet, as if every thing that I could have done, must, in the opinion of my officers, be condemned, my omissions to have these parades are not more severely censured than my conduct has been for making some display of the troops, and passing them in review on some few occasions, when I thought it was consistent with our situation. When the corps passed me by sections, after we had crossed the Miami, general Mac Arthur thinks it was not a review, because I was not, according to his experience, in the

situation which a reviewing general ought to have been; though, he admits that the officers at the heads of sections saluted me, and he admits that it is possible he might have saluted me himself. At the river Raisin, I also passed the troops in review. I did the same at Spring Wells, and marched the troops from thence to Detroit and back. But these parades seem to have excited the indignation of general Mac Arthur, as it did, according to his testimony, of other officers; but for what reason I have not been able to learn. The truth is, that from the moment we commenced our march, the troops were always under my eye. I saw them on their line of march. I saw them in their working parties, and in their encampments. I thought it would be as ridiculous as useless to make parades in the midst of the woods. Whenever the country opened, so that there was any room for display, I availed myself of it; not only that I might see the troops, and put them in military array, but I thought it would have a good effect to shew our line to the best advantage at the little settlements which we passed, and on our arrival in the neighbourhood of Detroit.

I shall trouble the Court with nothing further in relation to this charge, than the following quotation from general Cass and colonel Miller's testimony: general Cass states, that "from the time they left Urbana, "the march was conducted with all possible expedition. "There was no time to discipline the troops." Colonel Miller, on his cross-examination, says, "On the

"march there was no opportunity to discipline the "troops. The fatigues of the march, and cutting the "road, and making the encampments, were as much "as the troops could endure."

Connected with the accusation which I have last answered, is another which is in substance, that I did not during the march, prepare, and make known, an order of battle. That I prepared and published an order of march is admitted; a plan of it, which has been proved by several witnesses, is before you. This plan, as appears from the testimony of general Van Rensselear, and other witnesses, is that which was adopted by general Wayne, in the expedition which he commanded and marched through the same country. This order of march was in fact an order of battle, or at least, so little change of the disposition of the troops was necessary, in case of an attack, that it could be made in a moment, and was so obvious that it could never be mistaken. It is remarkable, that the commanding officers, whose testimony was expected to support this accusation, all say, that they knew how their respective corps were to form in case of attack; though, as they say, they never heard of any order of battle. It seems then, that an order of battle was made known, and the accusation must then rest upon the allegation, that the order was not made or published by me.

General Cass's testimony on this subject is as follows: "I think, when we arrived near the river Huron, or "between that and Swan Creek, the commanding "officers of regiments, under an expectation of an

"attack, applied to the general, and he permitted them "to form an order of battle. I do not recollect, that "the general assisted in making the order. I think "the plan originated with colonel Miller. I do not "recollect that the order was afterwards submitted to "general Hull. I presume there was an orderly book, "as orders were issued."

General Mac Arthur's testimony on this point is as follows: "On the day we passed the river Raisin our "march was about nine miles, and we encamped near "Swan Creek. Rumours were among the inhabitants "that we should be attacked by Indians, who were "assembled at the Huron, about six miles in advance. "Myself, and colonel Findlay, called on the General, "and stated that some plan of battle ought to be "agreed upon. In the march my regiment was di- "vided; a battalion marched on each side of the road, "in the rear of colonels Findlay and Cass. I mentioned "to the General, that thus situated, it was impossible "for me to be with both my battalions, and I wished "to be permitted, in case of attack, to form them in "one line. The General thought it would be well "enough to do so. I suggested the propriety of my "battalions being so formed on the march, in the rear "of the regiments, as that, in case of an attack, I "might *swing* my regiment round, and form the rear "line of a hollow square. The General gave me his "permission to adopt this plan, I then left him, *whether* "*I left the other officers with him or not, I do not know.*" Major Jessup testifies, that I issued orders on the

march; that they were generally sent to him by one of my aids-de-camp; that he assembled the adjutants, and communicated to them my orders. He further stated, that the orderly books generally were surrendered, but that captain Mac Commick and captain Rutleff, who were adjutants of Mac Arthur and Findlay's regiments, had preserved theirs. It unfortunately happens, that these books have not been brought on by these gentlemen. Had they been so, it would then have appeared what orders I did issue, and this matter would not have been left to the uncertain recollection of witnesses.

As I am accused of having omitted to issue orders, and of having given improper orders, I submit to the Court, whether I had not a right to expect, that the orderly books, which were in the possession of witnesses, brought forward by the prosecution, would have been produced; especially as I requested major Jessup might be summoned, with a *duces tecum*, to bring before the Court all the official documents in his possession, and the orderly book. But I proceed to examine the testimony in relation to the order of battle.

Colonel Miller testifies, "That an order of march "was published at Urbana, and was generally known "to the army; that the army commonly marched ac- "cording to that order. It was my understanding, "says colonel Miller, that in case of an attack in "front, my regiment was to form the line in front. In "case of an attack on the right flank, we were to

' form by facing the enemy; and so in case of an at-
" tack on the left. This was a general understanding,
" but I do not recollect to have seen any order to this
" purport, either written or verbal. I understood it
" from conversations with general Hull, and I believe
" it was so understood by the other officers. The
" General told me, that the order of march which he
" had adopted, was that which had been pursued by
" general Wayne. I know nothing to the contrary."
Colonel Miller adds, "of the General's having been
" almost always, when we were on the march, in a
" situation to direct the movements of the troops. For
" the greatest part of the time, the General rode near me
" in front. Sometimes he passed to the rear. Gene-
" rally the army encamped in a hollow square. After
" we apprehended danger, we commonly formed a
" breast-work, and encamped within it. By a general
" order, each line was to form in front of its tents, if
" attacked in camp. There was also a general order
" for turning out the troops by taps of the drum, pro-
" ceeding from head-quarters along the lines. This
" method was practised, and the troops were called to
" arms every morning, before dawn, by these signals."

I believe, Gentlemen, that this is the whole of the testimony, on this point, which can be considered as of any importance. It cannot be disputed then, but that there was an order of battle; but general Cass's testimony seems intended to leave an impression, that the order did not originate with me, but that it was suggested by my officers, and adopted by them, with

no order of battle was made known? If the subordinate officers were not instructed as to their duty, in the event of an attack, was it not the fault of these commandants of corps and not mine? Suppose there had been no written order of battle; but that after the order of march, which so nearly approached the order of battle, had been formed, I had explained to the commandants the disposition I intended, in case of an attack; could any man say, I was deficient in duty, because I had not explained my intentions in a written order? I believe no *one* acquainted with military history or practice, will think a general is bound to make an *exposure* of his *plans*, in every orderly book in his army. If the witnesses, in whose opinions these charges and specifications have been framed, have entertained such erroneous *ideas* of the duties of a commander, as this accusation seems to indicate, I hope now, that *some* of them have attained a rank which may give them the command of armies, they will learn, that to give a general publicity in their orderly books to their designs in case of an attack, will be a departure from their duty, and that they may often thereby afford their enemy an opportunity of gaining information, which he ought not to have.

As to the order of battle at night, it is proved by the testimony of colonel Miller, that that was settled by a general order, which was made known to all; and when the Court considers what was the nature of our lines of march; how nearly it approached the only order of battle, which could have been proper,

in the *warfare* which we were to expect; how instantly the order of march was made the order of battle; and consider also, that I was always at the head of the troops while they were on the march, I am persuaded the Court will think, there is no foundation for this accusation. If it has not originated in malice, it certainly has in ignorance.

I am unwilling to detain the Court longer on a charge, which, in my own opinion, is sufficiently answered; but I know I ought not to place so much confidence in my own opinion, as not to avail myself of any thing which may have an influence on the opinions of others. I must therefore advert to other testimony, which I believe ought to be conclusive on this point. I mean my letters to the War Department. Those to which I shall refer for this purpose, the Court will recollect were read by the Judge Advocate. If I had offered them, they certainly would not have been conclusive evidence in my favour; but when introduced on the part of the prosecution, so far as they establish any thing in my favour, they are as good evidence as they are to prove any thing against me. It would be a manifest violation of justice, if this sort of testimony should be resorted to for my crimination, and I should not be permitted to avail myself of it, so far as it might serve for my exculpation. It is a general rule, which applies to the administration of justice in all courts, that wherever a document is read by one side, the whole of it becomes evidence, of which either party may avail

himself. I beg leave to remind the Court that this rule has been acknowledged by the Judge Advocate. The Court will recollect, that in the course of the examination of captain Fuller, major Parker objected to take down his answer to a question which I put to the witness, as being unnecessary, because the fact as to which I interrogated him, was sufficiently proved by my letters to the Secretary at War.

In my letter, dated Solomon's Town, eighteenth June, eighteen hundred and twelve, I say, "My or-"der of march is in two columns, with strong front "and rear guards; the columns flanked by the rifle-"men and cavalry, where the ground will admit; the "baggage, provisions, &c. between the columns. The "army has been practised from the two columns to "form two lines, either in front, rear, or on either "flank, or to form a square facing outward. My order "of encampment at night is a square, facing outward "with all the baggage in the centre, &c."

My letters of the twenty-fourth June, eighteen hundred and twelve, from near Blanchard's Creek, enclosed to the Secretary at War the order of march which has been given in evidence. Among the manuscript notes subjoined to that order, is one in the following words: "The columns are in a situation to "form two lines in front, rear, or on either flank, or to "form a square."

After these observations, I cannot but be satisfied, that the Court will think that there was no ground

for charging me with neglecting to discipline and review my troops, or omitting to prepare and make known an order of battle.

The next accusations that I shall consider are, that I neglected to repair and put in order the cannon at Detroit; and to put the place in a state of defence:—that I did not seasonably repair, and put in a state of service, the artillery necessary for the operations in Canada; and that I did not transport them to the enemy's shore, so soon as I ought to have done. I have already had occasion incidentally to notice these accusations, and I shall give no further answer to them than to refer the Court to the testimony of captain Dallaba. He states, that when I arrived at Detroit, "the fort was generally in good order, and "in a good state of repair." On his cross-examination, captain Dallaba says, "the fort was in the state "of defence I have described, except as to some im- "material matters, on the fourth day of July, before "the arrival of the army. Afterwards, something "was done with the ordnance stores, and mounting "the cannon; but every thing designed for the de- "fence of the fort exclusively, was completed on the "fourth of July. After the general's arrival at De- "troit, industry and exertions were used to put in "order the field pieces and heavy artillery for the "siege of Malden. This was done (says the witness) "under my superintendance, and by order of general "Hull."

This witness was examined on the eighth of February: four days afterwards, on the twelfth, he is again called, by the Judge Advocate, and then he testifies as follows, "I have before stated, that no alterations "had been made subsequently to the fourth of July, "for defence of the fort.

"Some few artificers, immediately after the arrival "of general Hull, went to work to repair and mount "some heavy cannon on trucks, to be placed in the "batteries on the banks of the river. And some re- "pairs were made to three brass field pieces, and a "small quantity of ammunition was fixed for them. "But no order was received, to my knowledge, to "prepare the heavy field artillery, till after the army "went to Canada. I have the order, and think it "was dated on the fifteenth or sixteenth of July."

I have already made some remarks on this testimony, and stated, that the order was in fact given on the fourteenth of July. Till that time, the artificers had been otherwise employed. I will remind the Court here of the objection I offered, and which was overruled by the Court, to this mode of re-examining a witness. If to examine the witnesses in the presence of each other be a departure from the usages of Courts Martial, it is certainly a much wider and more important deviation from that usage, to call up a witness, and to allow him to make important alterations in his testimony, after he has been listening for days to the testimony of other witnesses. I now mark

this irregularity, as I conceive it to be, for the sake of presenting it, as well as the fact of all the witnesses having been, pursuant to a determination of this Court, examined in the presence of each other, to the attention of the high officer, who has authority to review these proceedings.

Colonel Miller testifies, that he "discovered no "want of exertion in respect to preparing the heavy "and light field artillery, after the army arrived at "Detroit."

General Taylor says, "I believe no time was lost "in preparations. Timber and some large wheels were "got out."

Again, the same witness says, that he visited the artificers every day, to hurry the preparations, with orders from general Hull; "and I must say, (adds the "witness) that general Hull shewed great anxiety in "getting the artillery ready."

I pray leave to make one remark on this language of general Taylor's, which I am aware may have the appearance of being hypercritical; but I beg the indulgence of the Court, till I have explained my reasons for noticing a circumstance apparently trivial. Why should general Taylor preface his testimony of this fact in my favour, with the phrase, "I must say?" It seems as if to state any circumstance favourable to me was the result of a compulsion, to which his mind

unwillingly submitted. In this instance, he speaks like a *penitent*, whose conscience obliges him to make the acknowledgment of a fact, which his inclination would prompt him to conceal. I had a right to expect, that when the witnesses could testify any thing in my favour, they would speak in the same unreserved language, which they used, when they intended to expose my misconduct.

Upon most occasions, observations on circumstances apparently so light, might not be proper or necessary. But, Gentlemen, I beg you to recollect, that the witnesses have undertaken to interpret my *looks*, and have ventured to infer from my *countenance*, from my *appearance* and *manner*, what was passing in my mind, and by what *motives* I was actuated. They have not hesitated to express opinions derived from no other indications, when they knew, that these opinions might affect my honour and my life. It cannot be improper then, that I should ask you to remark even the slightest expression of a witness, which I may think will betray the disposition with which he testifies. It is with reluctance that I attempt to impeach the testimony of any witness who has been called against me. I have been taught to venerate a soldier from my infancy. I know that the profession of arms generally adds lustre to the most noble virtues. But I know that men do not change their natures by becoming soldiers, nor by attaining the most elevated rank. And when they can reconcile to themselves to accuse me of coward-

ice, from appearances so fallacious, surely I may remark, that expressions they have used indicate bias, partiality, or prejudice.

Without detaining the Court with a particular recapitulation of more of the evidence on this point, I shall content myself with referring it to the very important and decisive testimony of captain Dyson, to the testimony of captain Bacon, and finally to the testimony of Mr. Watson; who says, that after my arrival at Detroit, no man could have been more industrious and indefatigable than I was.

I proceed to a new subject, and shall now make my defence against the accusation, which is in substance; that I did not avail myself of the opportunity, which the defeat of the enemy by colonels Cass and Miller, and their possession of the bridge over the river Aux Canards, on the eighteenth of July afforded of making an attempt on Malden; and that I did not maintain possession of the bridge. This forms the sixth specification under the charge of unofficer-like conduct.

The exposition I have already presented of my views and designs when I crossed to Canada, would, I humbly conceive, afford a sufficient answer to these accusations. I did not think it expedient to attack Malden, under any circumstances, which existed previous to our leaving Canada. Why I thought it inexpedient I have already explained. The advan-

tages which I thought were to be gained by delay; a regard which my orders compelled me to pay to the security of my own posts; the necessity of keeping open my communication; the certain consequences of defeat, and the probable consequences of victory, have all been considered, in making my defence against the charge of undue delay in Canada. If I was justifiable, or even excusable, in deferring the attack on Malden, I must be so in having omitted to avail myself of the possession of the bridge, and in not having attempted to maintain it. It would have been absurd to have attempted to maintain a post so far in advance, unless it was with a view to an immediate movement on Malden. But I beg the Court to advert to the date of this transaction. It was not on the eighteenth of July, as mentioned in the specification, but on the seventeenth, as appears by my letter to colonel Cass. This was the fifth day after we moved into Canada. At that time, the deliberations of my officers in Canada had uniformly resulted in the expression of an opinion, that the attempt on the enemy's fortress should be deferred, till the artillery was prepared; and it was immediately after the council at Sandwich, in which colonel Cass himself, as appears by the testimony of judge Witherill, had advised that the attack on Malden should not be made without cannon.

My views in sending this detachment, or rather in permitting general Cass to march it, appear from his testimony. I meant it as a reconnoitring party, and

by no means intended that the commanding officer should pursue measures which might expose the detachment to be sacrificed, or oblige me to abandon the system I had adopted, by leading my whole army to its support. Colonel Cass testifies, that a day or two after colonel Mac Arthur was detached to the river Trench, he (colonel Cass,) requested me to permit him to reconnoitre the ground between Sandwich and Malden; that I did permit it, and a detachment of two hundred and eighty men were ordered for that service.

General Taylor states, that he was present when news arrived that colonel Cass had taken the Aux Canards bridge. "That I expressed my astonishment, "that colonel Cass should have commenced hostilities, "as I was not ready with the artillery; that I appeared "to be irritated, because colonel Cass had taken upon "himself to act, without my authority: the detach- "ment having only been sent out for observation."

It cannot be doubted, but that general Cass knew my views, and the objects of his detachment. How far he was justifiable, in pursuing measures so contrary to them, not only in making an attack, which might have forced me to a general and decisive action for his support, but after my verbal orders to retire, persisting to maintain his situation, till he tried the effect of a written remonstrance to me, it is unnecessary now to consider. I do now believe, that the whole of this proceeding was a manœuvre, to afford

grounds for new clamours against me, and weaken my authority. My officers, long before they had matured their conspiracy to wrest the command from me by actual violence to my person, had formed a plan, of which I firmly believe this was a part, to place me in such situations as would oblige me to be obedient to their schemes. If any thing successful was done, they would claim all the merit. In case of disaster, the blame could easily be thrown on the commanding general. If I had led the army to the Canards, which probably I must have done to have maintained the bridge, instead of its being alleged against me as a crime, that I did not do so, do you not believe, Gentlemen, in case we had been defeated, I should have been charged with misconduct, in having acted in opposition to the advice of all the council, not to move on Malden without artillery? And when it is considered, that colonel Mac Arthur was absent with a large detachment; that I had received no intelligence from him; that I was under great uneasiness on his account, I do think that if I had left him in my rear, and with only a part of my army had taken ground, which might have been the field of a general action with the enemy's whole force, which was then either in respect to its regulars, militia, or savages, unascertained, and at that time but inconsiderably weakened by desertion, I should have been highly culpable.

Colonel Miller's account of this transaction is as follows: "in answer to a message sent to general Hull,

"he sent us an order to return. The purport of his "message was, that he could not soon be ready for "the attack on Malden, and could not think of divid- "ing the army. We then wrote to him and pressed "in strong terms the necessity of maintaining the "bridge, in answer to which he sent a written dis- "cretionary order to us, expressing his anxiety about "general Mac Arthur, &c."

This order has been proved. It is in the following words :

SANDWICH, July 17, 1812.

SIR,

I have received your letter of this morning. To my astonishment I have received not the least information from Mac Arthur. It is possible something unpleasant has taken place. It will probably be a week before the cannon will be mounted. I am sensible of the advantages of holding the bridge. I would not, however, hazard too much for the purpose. The enemy may pass the ford above, and come in the rear. I will, however, leave it to your discretion, and colonel Miller's, under all the circumstances of the case to do that which you judge most expedient. Twelve miles is a great distance, and the enemy can either land in boats above the mouth of the river, or pass at the ford to attack you. You know the ground better than I do, and as I before observed, I will leave the measure and the force to

your discretion and colonel Miller's, and the best mode of security to the party.

I am very respectfully,

your most obedient servant.

WILLIAM HULL,

Brigadier General, commanding.

Colonel CASS.

Colonel Miller further testifies, that, "upon the receipt of this letter, the officers were called together, "and it was decided, that unless the bridge, being "twelve or fourteen miles from our camp, and only "four or five from the enemy, could be supported by "*our whole force*, we had better return; and that as we "had not the disposition of the whole force, which "was thought necessary, we ought not to take the "responsibility."

This testimony, I think, developes too plainly to be misunderstood, the design of these proceedings. I was to be compelled to abandon my own plans, and to adopt those of my officers. I was to be compelled to lead my whole force in a manner under the walls of Malden, without being provided with artillery, and I was urged to do this, by the commandant of the detachment, who but a day or two previously had given a decisive opinion, in council, that the attack on Malden should not be made till the ordnance was prepared.

But when it was found, that my order left the officers of the detachment a discretion, and that if an attempt to maintain the bridge should be attended with any disaster, the officers must share the responsibility, then there was no doubt as to the measures to be pursued. It would have disappointed the whole design if I should escape any part of the odium.

But however this affair of the bridge has been magnified, it is a fact, that the possession of that pass by the enemy never was contemplated as an obstacle to a movement on Malden. They, in truth, never attempted to maintain possession of it. Colonel Cass's rencontre was only with a reconnoitring party. According to the testimony of colonel Miller, they saw no more than fifty of the enemy. He says they had about twenty five men on the bridge, and about twenty five on our side, and that some men were discovered in the woods. After this, there were, as appears from the testimony of colonel Cass, repeated detachments sent from Sandwich to the bridge. They always found it unoccupied by the enemy. It could then have been no object to have moved the army to that post, until the attack on Malden was determined upon.

It is curious to observe, what trivial and irrelevant circumstances ingenuity can bring together to create false appearances. Some of the gentlemen, who were prisoners with the enemy at the time of this transaction, have been produced to testify, that when

accounts reached Amherstburgh that our detachment had appeared in the Aux Canards, it created great consternation; and it was intended that it should be believed, that the enemy were ready to abandon their post at our approach. But it turns out, upon further explanation from witnesses of the same description, that the disposition to fly was only manifested by the town's people, who thought it unnecessary to expose their persons and effects in a place which was likely to be invested. This, so far from being evidence of an intention to yield the place without contest, is not an unfrequent measure when the most obstinate resistance is intended.

In my letter to the Secretary at War of the nineteenth of July, I mention the affair at the Aux Canard bridge, and say, great credit is due to colonel Cass and his detachment. For firmness, to colonel Cass and the other volunteers, when supported by the proportion of regulars, which were with them in this first encountre with any enemy, I did think credit was due, both to men and officers.—But when I wrote that letter, I had not the same view of the designs formed against me which subsequent circumstances have expressed. I did not then see, that a plan which has been so successful, was settled to make my destruction a merit, which was to give another my place, and some of his accomplices, *rank* and *fortune*.

I am charged with unofficer-like conduct in suffering my communication with the river Raisin to be

cut off. This imputation is among the last that I expected to find in the catalogue of my accusations. If it had been intended to shew, that nothing that I did, or intended to do, could escape censure, this specification would afford strong evidence of such a disposition. For the means that I took to open this communication are also made the subjects of accusation. The detachment under colonel Van Horn, the retreat from Canada, the detachment under colonel Miller, and under colonels Mac Arthur and Cass, although they were all measures which were dictated by the strong necessity, which I saw and felt, to keep open the communication in question, are all set down as instances of misconduct. But I would ask those, at whose instigation these charges have been made, what measures I should have pursued to have effected this object? It must be remembered, that it was utterly in vain to have opened the communication to the river Raisin only. No supplies could come from thence that were not drawn from the western states. I must therefore have protected the road all the way from Ohio. Was this to have been done by stretching back so great a distance with a sufficient force? If so, my whole army would have been insufficient for the purpose. The two hundred men I sent under major Van Horn my two senior officers thought insufficient. In their opinion, I ought to have detached, for this duty, one of their regiments. Colonel Miller, after he had defeated the enemy, had more than five hundred men left, and was within fourteen miles of his destination.

He thought it necessary to send back to me for a reinforcement of one hundred and fifty, or two hundred, before he could proceed, although he knew that at the river Raisin he was to be joined, and would be strengthened in his march back, by the detachment under captain Brush, which had escorted the provisions to the river Raisin. If so great a number of men was requisite merely to force a passage to the river Raisin and back, how great a portion of my army would have been necessary to keep open the road to Ohio, or even that portion of it which was between Detroit and the river Raisin?

I think it must appear to the Court, that I could not have kept open this extensive line of communication, without distributing my whole army along the road; and yet, according to the inferences to be drawn from the charges and specifications, I was criminal in not carrying on an offensive war in Canada, and in not performing, at the same time, another service, which would have required all my troops.

That this communication ought to have been kept open is most certain, I did expect it would have been. I did suppose that a force would have been sent after me, adequate not only to this purpose, but to augment my army. The grounds I had for these expectations will appear from documents, which are before the Court, to some of which I have already adverted.

It is alleged, that I was guilty of misconduct in sending the detachment under major Van Horn, be-

cause it was inadequate to the purpose for which it was intended. The proof of the inadequacy, I presume, is, that it was defeated. It appears, however, that it was not owing to want of numbers that this defeat happened. According to major Van Horn's own account, the party that attacked him, he judged from the fire, was from one hundred and fifty to two hundred. This was conjecture, for more than forty savages were not seen. But these volunteers, the same patriotic men who are said to have wept so bitterly because they were not allowed to fight at Detroit, fled in the first moments of an attack, with the utmost disorder and precipitation. Had not this been the case the detachment was sufficient. If it had fought the enemy, there can be no doubt but it would have made its way good to the river Raisin, where it would have been joined by a large detachment under captain Brush. If the detachment had been ever so large, it would have been insufficient, if the men behaved no better than those major Van Horn commanded did upon this occasion. But, Sir, the true foundation for this charge is, that I did not think proper to be obedient to the advice of my two senior officers. It was placed in this black catalogue, solely for the purpose of giving *them* an opportunity of proclaiming to the world their own superiour sagacity and judgment. It was to give *them* an opportunity to prove by their own testimony, that whatever I did was wrong, and that whatever they advised would have been right.

But possibly I ought to have suffered the advice of these officers upon this occasion to have had more weight. I should have reflected, that they had the best opportunity of knowing the character of their own troops, and might have anticipated their shameful conduct; but then I think, I have reason to complain, that colonels Cass and Mac Arthur were not at this time as candid, as they were when it was proposed to attempt Malden by assault, and that they did not tell me, as they did then, that they could not be responsible for their men. If they had told me this, I might have thought it right to increase the force of the detachment, and to have added to it some regulars; whose presence might, as it did at the Aux Canards, have encouraged the volunteers to have faced the enemy, or made them more afraid to run away than to fight.

The next accusation is one, that can only have been set down to swell the list of offences imputed to me; for it is without any manner of foundation. It charges me with unofficer-like conduct, in having detached colonel Miller on the eighth of August, and not having supplied him with provisions, when he was near Brownstown.

While, Sir, I feel myself bound to acknowledge the liberality with which I have been treated by the Judge Advocate, in the course of this trial, and the delicacy with which he has in general refrained from repeating the odious epithets, which are so profusely

and wantonly used in the specifications, I cannot but regret, that he has, in respect to this charge, departed from his general observance; and that he should, upon such evidence as was before him, have thought himself justifiable in imputing to my misconduct, on this occasion, an useless waste of *American blood.* Sir, the American blood that was spilled in the contest at Brownstown was gloriously shed. It purchased a victory that did honour to our arms. True, it was ineffectually shed—but to lay the failure of the enterprise to me, and to reproach me with this waste of blood, is as unjust as it is inhuman.

I do not understand, that I am supposed to have done wrong in sending the detachment, or in not making it of greater force. By the testimony of colonel Miller it appears, that he marched with six hundred men, instead of five hundred, as is mentioned in the specification. But the misconduct imputed to me is, as I understand, solely, that I omitted to supply colonel Miller with provisions after the battle at Brownstown. With respect to the want of provisions, it appears, that the detachment was amply provided when it left Detroit. The march they were to perform, was about thirty miles; and colonel Miller states, that they were furnished with a supply for two days when they set out. But he says, that the provisions were thrown away with the men's knapsacks when they were attacked, and though he represents the enemy to have been entirely beaten, and so far driven from off his rout, that captain Maxwell went

from him to Brownstown and back, and reported, that the enemy were all gone; and though colonel Miller states, that he returned to the battle ground with his whole force, and was, in fact, undisturbed on that ground nearly two days, yet he says in his cross-examination, that the provisions were not recovered, because he could not suffer his men to separate to take them up. I cannot conceive what necessity there could have been for his men's separating. It appears to me, that he would only have had to march his whole detachment over the ground where the attack was made, and the provisions might have been recovered with as much security to the detachment, as when they were remaining inactive in the position to which they had retrograded. Colonel Miller, in his account of this transaction, states, that he considered that his victory opened the communication to the river Raisin sufficiently for him to have proceeded—that on the evening of the day on which the battle was fought, that is, the ninth, he sent major Snelling to make a report to me, to inform me of the loss of the provisions, and to request, that I would send boats or waggons with provisions, and to take back the wounded. He was also to request a reinforcement for colonel Miller, which colonel Miller, on his cross-examination says, he suggested should be from one hundred and fifty to two hundred men. Colonel Miller also states, that colonel Mac Arthur came down the next morning (that is on the tenth) with eight or nine boats, and brought with him no more than two barrels of flour, one barrel of pork, and half a barrel of whiskey;—

that the place where the battle was fought was about fourteen miles from Detroit, and sixteen to the river Raisin, between Maguago and Brownstown; it being late in the day before the wounded men could be got on board the boats, he knew that he could not get through before the next night, (that is the eleventh) moving as cautiously as they ought to do;—that the men still complaining of hunger, he concluded that he could send to Detroit that evening, (that is the tenth) and have provisions the next morning;—that he accordingly sent an express to me on the evening of the tenth, requesting that I would send him two day's provisions;—that no messenger from me came to him till sun down the next day, (that is the eleventh) that the messenger informed him, he had been detained by losing his way;—that this messenger brought him an order from me to return to Detroit, and informed him that he would find provisions at the river Ecorce;—that on the same evening he took up his march for Detroit, and arrived there the next day, (the twelfth;) that his force was two hundred and eighty regulars, and three hundred and twenty militia, some of the Michigan militia, and some of the Detroit horse;—that the militia behaved well;—that his loss was seventeen killed, and sixty-four wounded.

Sir, it has always appeared to me most unaccountable, that colonel Miller, after he had disposed of his wounded men on the tenth, and when, according to his own testimony, he considered that his victory had opened his communication to the river Raisin, did not

"On the day we crossed from Canada," says colonel Mac Arthur, (that is the eighth of August,) "Colo-
"nel Miller was sent with a detachment for the pur-
"pose, as was stated, of opening a communication
"with the river Raisin. The night succeeding colo-
"nel Miller's battle at Maguago, (perhaps the ninth,)
"the General sent for me—the night was wet; he in-
"formed me of the battle, and directed me to take one
"hundred of my regiment, to take the boats along
"the river, and to descend to colonel Miller's en-
"campment, for the purpose of bringing up the wound-
"ed men. He directed me to get one day's provision
"for colonel Miller's detachment. I called at the
"commissary's and was detained three or four hours
"in getting it—I got what I could."

It has been my misfortune, Sir, that I have not been able to obtain the testimony of Mr. Beard, the commissary. He has been regularly summoned by the Judge Advocate, at my request; and I have several times written to him, but he has not made his appearance. The Judge Advocate, however, with his wonted candour, has admitted a document which in some measure supplies his testimony. It is an order which I issued to the contractor on the ninth of August, for delivering rations to colonel Mac Arthur for colonel Miller's detachment. The receipt of which order is acknowledged by the contractor, or a copy thereof, which is in the following words:

"The contractor will issue six hundred rations
"of bread or flour, six hundred rations of pork, and

"twelve hundred rations of whiskey, to be sent to the "detachment under the command of lieutenant colo- "nel Miller.

"By order of brigadier general Hull,

"H. H. HICKMAN,

August 9th, 1812. "Captain, Infantry."

"(CORRECT COPY.)

"D. BEARD."

Now, Sir, it appears that general Mac Arthur knew, that one purpose of sending him to colonel Miller's detachment was to carry provisions. He says, I directed him to take one day's provisions for colonel Miller's men; that he was detained by the contractor three or four hours, and took what he could get. And it appears that he arrived at colonel Miller's encampment with only two barrels of flour, one barrel of pork, and half a barrel of whiskey. When I had given the order to colonel Mac Arthur, to take the provisions; when I had issued the order to the proper officer to issue them to him, had I not done every thing that was incumbent on me, as commanding officer? Was it my duty to go to the commissary's store, and to superintend the issues? If colonel Mac Arthur found the commissary disobedient to my order, and unduly detaining him, why did he not report to me? How will colonel Mac Arthur excuse his having departed on this service, without having with him the quantity of provisions I had ordered? Is it sufficient for him to say, that he took what he could get? If

there was any deficiency he ought to have informed me of it; he could have had communication with me in five minutes. If want of provisions was the reason why the American blood that was spilled at the battle of Brownstown was shed in vain, I again ask, was it not most unjust to charge that waste to me?

On the tenth of August, I issued another order for provisions for colonel Miller's detachment. This has also been read, and is in the following words:

"DETROIT, August 10th, 1812.

"The contractor will issue, for colonel Miller's de-
"tachment, two thousand complete rations.

"A. F. HULL,
"Aid-de-camp."

These provisions were sent by the contractor to colonel Miller's detachment. Colonel Miller met them on his return, and brought them back with him.

An accusation of the same nature with that which I last considered, is, that I also omitted to supply with provisions the detachment which left Detroit on the fourteenth of August, under colonels Mac Arthur and Cass. General Mac Arthur's testimony on this subject is as follows: That on the fourteenth of August, about noon, as he thought, I sent for him, and informed him, that I had just received intelligence from captain Brush, that he had arrived at the river Raisin with provisions, and said, I wished to send out a detachment to meet him. That he replied, he

was ready to obey my order. Colonel Cass said the same thing. That they (the witness and colonel Cass) then returned to camp, and shortly after received an order to detach one hundred and fifty men from each of their regiments. That in the evening I came along, and asked if they were ready to march. The witness answered, that they were not, but as usual had not a bite of any thing to eat. That I said the detachment must not be delayed, and I would send provisions after them. The witness then gives an account of the proceedings of the detachment till its return to Detroit, and states, that they never received any provisions from the fort.

I cannot but think, that this account of general Mac Arthur's conduct, though given by himself, will excite the surprise of the Court.

He was ordered to march a detachment at about twelve o'clock. He does not move till evening, and I then find that he has not obeyed the order. He gives me to understand that he has been waiting for provisions. If there was no order for provisions, why did he not apply to me on the subject? But there was one, and I think general Mac Arthur's testimony shews it.

When he sees me, he does not complain of the want of an order, but that he cannot get the provisions. If there was an order, and the proper officer did not obey it, why was not the disobedience report-

ed to me? Instead of pursuing so obvious a course, colonel Mac Arthur chose rather to remain in his camp five or six hours, and if I had not accidentally met with him, how much longer he would have considered his delay warranted by the same cause, it is impossible to say. It does appear to me, that this conduct of general Mac Arthur is very unaccountable. Perhaps he had no inclination for the service he had been ordered to perform, or it may be, he thought, that by the delay, or by going without provisions, he should bring blame on me. The behaviour of general Mac Arthur upon these two occasions, that is to say, in respect to the provisions which he was to take for colonel Miller, and in respect to provisions for his own detachment, it appears to me, manifests very strongly that there was some hidden motive for his conduct. And in this last instance there is a mystery, which I am sure is not explained by any thing he has said. It never can be believed that he waited so many hours, solely for the purpose of obtaining an order for provisions, or if he had an order, that his delay was merely for the purpose of having it executed. If his only object had been to procure provisions, the means of doing so, by an application to me, were so obvious and direct, that he could not have hesitated to pursue it. But if the Court will recollect that at this time the conspiracy had been formed to take the command from me, and that general Cass, in his letter to the government, has stated, that the execution of it was only prevented by his and general Mac Arthur's having been sent on

this detachment, it may account for the conduct of these officers. The delay was possibly to mature their plot, and to put it in practice.

If general Mac Arthur was on his trial for misconduct in relation to these transactions, I am persuaded that his testimony ought rather to convict him than me.

But I did take measures for supplying the detachment with the necessary provisions. My information from captain Brush was, that he would be on his march with the provisions under his escort, with the expectation of meeting a detachment from Detroit for his support.

It appeared to me, that not a moment ought to be lost, in sending a force to meet him; and when I found that general Mac Arthur had delayed to execute my orders for so many hours, I determined that the departure of the detachment should not be longer postponed. I therefore ordered it to march, and determined to send provisions after it on pack horses. I immediately gave the necessary orders to the acting Commissary General, for that purpose. This is proved by the testimony of general Taylor. He says that on the fourteenth of August, I did give him an order to furnish pack horses to carry provisions for the detachment going to the river Raisin, under colonels Mac Arthur and Cass. That he did not know whether the provisions were sent, but that pack

horses were furnished for the purpose, and he presumes the provisions were sent. That I gave all the necessary orders for sending them is certain, and if my orders were not complied with, I do not think I am the person, that ought to be called to answer for it. It never can be expected, that a commanding officer should not only give orders, but should attend to the execution of the details. There was, as Mr. Watson has testified, a want of system in every department of the army, which it was impossible for me to remedy, because the heads of them were totally inexperienced. However, the fact is, that the provisions in this case were sent. But as the detachment, pursuant to my orders, took an unusual and obscure road, the guides, as I have heard, misled the provisions, and they were not heard of before the surrender.

In the seventh specification, under the charge of unofficer-like conduct, is assembled a variety of accusations. The first is a little incongruous in its language. It is stated, that the enemy having erected batteries opposite to Detroit, I was, from the eleventh day of August, to and including the sixteenth day of the same month, guilty of a neglect of duty, in not preventing the enemy from erecting the said batteries.

It would be an answer to this charge to say, that I could not have prevented the erection of batteries, which it is stated were already in existence. But though I think there are many incongruities of the

same nature in the specifications, I have not attempted to avail myself of them, and shall no further notice this.

The Court will observe, that this accusation is connected with, and indeed entirely rests upon a previous allegation, that I well knew these batteries were erected by the enemy with an intention to annoy Detroit, and with a design to facilitate the invasion of the Michigan territory. The fact is, I had no such knowledge. I had a firm persuasion that the enemy would not invade our territory. I did believe that the war on their part would be entirely a defensive war, and that these batteries were only intended for the defence of their own shores. I admit, Sir, that my opinions in this respect, subsequent events have proved were entirely erroneous. But I cannot believe that a mistake in opinion or judgment is to be punished as a crime. This would be less a defence to an accusation of this nature, was not the charge so connected, as I have mentioned, with the allegation, that I knew how the enemy intended to employ their batteries. The question must be first asked, had I this knowledge? There is not a particle of evidence that I had; and if this question must be answered in the negative, the accusation is not supported. But I do not rest this part of my defence on this ground.

That the enemy did erect batteries opposite to Detroit, and that I did not attempt to annoy them,

till they commenced their fire on the fifteenth, are facts not to be disputed. I did not annoy them for the reason I have above mentioned, that I considered them as mere defensive works. But a desire to preserve my own ammunition was the principal reason for this conduct. I might have hindered the enemy from progressing in the day time, but in the night, any annoyance I could have given them would have been ineffectual. Captain Dallaba has given a statement of the ammunition. Captain Dyson of the artillery supposes it would not have lasted more than three or four days, if we had commenced and continued firing. The fixed ammunition, he says, could not have lasted more than two days. Captain Bacon testifies, that on the morning of the sixteenth, he examined by my orders the magazine, and could find but one box of twenty-four pound cartridges, and that he reported to me they were nearly expended. The testimony of all the witnesses who have spoken shews, that my mind was impressed with the necessity of sparing the ammunition, and that this, as well as the expectation that the enemy did not intend, as long as I did not provoke, offensive operations, were the reasons why I did not cannonade the enemy while they were fortifying on the opposite shore. Major Trimble testifies, that when he proposed to me to fire on a party of the enemy, which made its appearance on the fourteenth of August at Sandwich, I answered that it would not do to expend the ammunition uselessly. Captain Bacon says, that on the morning of the sixteenth, he was directed by

me to go to captain Dyson, at the battery where he commanded, and inform him that the twenty-four pound ammunition was nearly exhausted, and that he must not fire but when there was a prospect of his doing execution.

Another of the accusations which are assembled in this specification is, that I omitted to fortify Spring Wells. I do not know why it might not as well have alleged that I omitted to fortify any other position in the river Detroit.

It is not in proof that that spot was particularly adapted to a fortification. If it had been fortified, the enemy would not probably have selected it as their place of debarkation; almost any other spot within the same distance, above or below the fort, was as well calculated to afford them a landing. This specification also accuses me of having neglected to annoy the enemy after he had landed at Spring Wells. Gentlemen, the answer to this specification is embraced in the defence I have made as to the final surrender.

I had made preparations for attacking; the troops were drawn out, and formed in line of battle; but before the enemy came up, I determined to surrender. My reasons for this measure, I have already explained. I shall not repeat them. I will only beg you to observe, that the reasons I have offered have not been suggested merely for the present occasion. Ma-

jor Munson testifies, that he saw me the day after the surrender; that I told him I expected to be censured for what I had done, but said, "I have done, what "under all circumstances was most proper, and I "have saved Detroit and the territory from the hor- "rours of an Indian massacre."

But I am accused of having made the surrender in an unofficer-like manner; in having made it before the articles of capitulation were signed; in not stipulating for the honours of war, or for the security of the friendly inhabitants of Canada, who had taken protection from us. Before I make observations on this subject, I beg leave to present to the Court collectedly, the testimony which relates to it.

Major Snelling testifies in substance, that immediately after the second shot which did execution in the fort was fired, captain Hull was sent across the river with a flag, and that he (major Snelling) was sent to order colonel Findlay into the fort. The witness having performed this duty, went to one of the batteries; while there, a British officer with a flag, came to inquire what was the meaning of sending the flag across the river, when general Brock was on the American side? Lieutenant Hunt then went with the information to me, and returned with a sealed letter, and orders that he (the witness) should carry it to general Brock. That the witness met general Brock at the head of his troops, about three quarters of a mile from the fort, where they were not in sight from the fort.

The witness having delivered the letter, of which he was the bearer, general Brock asked the witness "*if he was authorized to agree on terms?*" The witness said not. General Brock then asked two of his officers to go with the witness to the fort.

As they approached the fort, they were met by some persons who conducted them to a tent, which had been erected by my orders, where they were met by colonels Miller and Brush, commissioners appointed by me, and the capitulation was there signed by the commissioners.

The contents of the note, the witness says, were no more than these words: "Sir, I agree to surrender "the town and fort of Detroit." He would not undertake to say, that the words he gave were the whole substance of the note, but he believed they were.

Major Snelling further testifies, that before the capitulation was signed, he saw me near the marquee in conversation with colonel Findlay, and with the British officers, colonel Mac Donald and captain Clegg, who were within the marquee. The witness said, he did not recollect that I took any part in drawing up the capitulation. That I ordered off a number of our officers, who were collected about the marquee, and among the rest the witness.

In a subsequent part of his examination he says, that before the capitulation was signed, colonel Find-

lay's regiment was marched into the fort, which was very much crowded.

Captain Mac Commick testifies, that after colonel Findlay's regiment had been ordered into the fort, he met colonel Findlay as he was going into the fort; that they there saw me; that I requested colonel Findlay to join colonel Miller, to treat with the enemy, and said that we could then get better terms than we should, if we waited till they attempted to storm the fort. Captain Mac Commick further testifies, that as he went out of the fort, he saw the British officers, colonel Mac Donald and captain Clegg, coming towards the fort. Some one said, it was improper they should be permitted to come in, and they went to the tent. Shortly after the British officers, with colonel Miller and colonel Brush, came into the fort, and were there together in Dyson's quarters, where, as he supposes, the capitulation was signed. The witness further testifies, that before this, and at about the time the British officers and colonels Miller and Brush went into Dyson's quarters, nearly all the troops were marched into the fort.

In his cross-examination, captain Mac Commick says, it might have been ten minutes, half an hour, or more, after the firing ceased, before the troops were ordered to march into the fort. That he himself did not come into the fort, till half an hour after the firing had ceased.

Major Van Horn testifies, that on the morning of the sixteenth, captain Hull came to the tent of colonel Findlay, in which the witness also quartered, and informed colonel Findlay, that it was my orders that his regiment should move to and form on the south-west of the fort.

The witness then describes the position of colonel Findlay's regiment in the line, and the manner in which the whole line was formed. He then further testifies, that after the line was formed, and about an hour, or half an hour before the flag was hoisted, I came to the line. That this was during the cannonade.

British officers were then seen passing to and from the Indians. That I appeared satisfied with the positions of the troops. That the witness said to me, we shall be able to give a good account of them. About the time the firing ceased, witness turned round and saw a flag hoisted in the fort, and at about the same time, captain Snelling came with orders from me to colonel Findlay to march his regiment into the fort, and said, that it was my directions that as the flag was out it should not be violated.

The witness further testifies, that I remained at the line formed by the troops about three, or it might have been, five minutes;—that colonel Findlay expressed dissatisfaction with the order, but said,

it must be obeyed, and directed the witness to march his battalion towards the fort, which he did, but halted near the fort some minutes;—that finally he marched his men into the fort, and they there stacked their arms;—that colonel Findlay did not come in till some time afterwards. The witness further testifies, that when he got into the fort he saw me, but was not certain that I was there when he entered;—that some time after the witness had been in the fort, I addressed him, and several other officers at the same time, and invited them into the room of one of the officers; that I told them I had surrendered the fort, *and was about to make the terms;*—that I asked, if they thought of any thing as a condition, I should be glad to know what it was;—that the witness did not go into the room;—that when he first saw me I was on the steps, going into one of the rooms;—that some time after this, colonel Mac Donald and captain Clegg rode up, came into the fort, and went into the room where I was;—that the witness does not know whether I did or did not go into the marquee before the British officers came in; that our whole line, as he believes, had marched into the fort and stacked their arms;—that this had taken place before the British officers came in.

Major Jessup testifies, that he had observed our troops retreating, and saw the flag flying. He met colonel Findlay, who requested him to ride towards the fort, and learn the reason of the retreat;—that

he found me in the fort, and thought me very much frightened;—that after a conversation with me, of which he has repeated his own gallant expressions, but unfortunately cannot recollect what I said, he went out and met colonel Findlay, and said to him all was lost;—that when he saw me at the time, the terms of capitulation had been agreed upon, that he met me in a piazza, before captain Dyson's quarters;—that I was then perfectly composed.

He then relates a conversation with me, which concluded with a request that he would continue to act in his station, till the troops were marched out of the fort;—that he consented to this, and received from me, or one of my aids, a copy of the capitulation, which I directed him to read to the troops; and that he did this when the troops were marched out at about twelve o'clock.

The witness further states, that he thinks a detachment of the enemy came into the fort before the articles of capitulation were signed; but that he is not certain whether the enemy's troops marched in before the American troops marched out, but knows that the American troops did not march out till after the capitulation was signed.

Captain Burton testifies, that he knew when the capitulation was agreed upon;—that it was done in captain Dyson's quarters, where he saw me, general

Brock, and two or three British officers;—that they were writing and preparing the articles of capitulation;—that he heard remarks which induced him to believe, that the articles of capitulation were not agreed upon;—that he could not say, whether the American troops were then in the fort, but there were, at that time, one hundred and fifty British troops standing with advanced arms in the fort;—the enemy were at or about this time placing guards in and about the fort;—that the reason why he supposes that the articles were not at this time finally agreed upon, was, that he saw general Brock, with a paper from which he struck out two or three lines, which as he understood related to the regular troops returning home, which general Brock said he would not agree to;—that at about this time, he saw one of the British officers writing. Before this he had seen the British officers and American officers at the marquee, and that I also had been there;—that it was about three quarters of an hour after he saw the British officers going with me to the marquee, before he saw the British officers in Dyson's quarters.

On his cross-examination by the Court, major Jessup says, when the terms of the capitulation were discussing, the American troops were crowded in the fort, in the utmost disorder, and the enemy were permitted to approach so near the fort as to be able to take possession of the batteries.

Captain Fuller testifies, that soon after the white flag was hoisted, he went to the fort, and there met colonel Mac Donald and major Clegg;—that I was standing near the gate, one of the British officers said to me, that they were sent by general Brock in consequence of seeing a flag hoisted, to receive any communications;—that I replied, that I should surrender, and desired them to go to the marquee, where I would go or send to them;—that major Clegg requested the witness to go with him to the marquee for fear our militia might fire on him;—that he went with him to the marquee;—they were furnished with pen, ink, and paper by major Snelling;—that soon after they got to the marquee, I, colonels Miller and Brush came;—that he staid near the marquee about ten minutes, and then went to the fort, leaving me at the marquee;—that when he returned to the fort, he found our troops were in and had stacked their arms;—that some time after he saw the British officers, Mac Donald and Clegg, come out of Dyson's quarters, one of them having a paper, which he said had been signed by me, and that he was going to take it to general Brock for his approbation, and wished the witness to go with him for the same purpose;—that he accompanied him to the marquee;—that the witness went and found the British column led by colonel Proctor about half a mile below the fort;—that he left colonel Mac Donald and returned to the fort.

Colonel Miller testifies, that on the morning of the sixteenth I was in the fort;—that it was reported to

me that the enemy were advancing, and that part of the Michigan militia had joined the enemy;—that upon this I asked him if I had not better send out a flag. He told me he did not know. I had better consult the officers who were without the fort, that they had the best opportunity of judging;—that I said there was no time for consultation, that I would send a flag, and that I did so;—that some time after this, colonel Findlay's regiment marched into the garrison;—that I went to a tent and sent for him;—that when he approached the tent, I was standing in the tent with my back towards him;—that he heard me say to the British officers in the tent, "I will surrender;"—that I then requested him, with colonel Brush, to assist in drawing up some articles of capitulation;—that he remained at the tent, lying on the ground, in a violent fit of the fever and ague, while colonels Brush and Mac Donald were penning the articles.

The original articles of capitulation were then shewn to the witness, and he said he believed them to be those which he had signed, but said he was strongly impressed with a belief that when they were read to him, and he signed them, they contained a provision that the garrison should march out with the honours of war.

In his cross-examination by the Court, colonel Miller states, that according to his best recollection, he went to the tent between ten and eleven o'clock,

on the morning of the sixteenth;—that he remained about three quarters of an hour;—that after he had signed the capitulation, he went to the fort and went to bed. There were then no British troops in the fort, but he saw as he went in, a company of about one hundred British soldiers, standing near the gate of the fort. In a subsequent part of his cross-examination, he states, that I told him I was willing that he should make a surrender the basis of a treaty, and that he must get the best terms he could. He further says, that when I sent out the flag, I mentioned to him that I did it to gain time; that I expected to procure a cessation of hostilities, and that I might in the mean time hear from colonels Mac Arthur and Cass. Colonel Miller was called again a few days after his first examination, and he then stated, that after the first flag was sent out, and before an answer was returned, colonel Brush came to me, and having been informed, that Knagg's men, who had the advanced post below the fort, had deserted to the enemy, colonel Brush exclaimed, that "By God, or that, he believed "by God, his men would desert to a man."

I believe, may it please the Court, I have here collected all the testimony that is material, whether it be for or against me, which in any wise relates to the matter now under consideration. I do not pretend that I have given the very words of the witnesses in all instances; but I have done so, as nearly as my own recollection, and the notes of my counsel, would

permit. If there be any errours, or omissions, they certainly cannot be intentional; because I know that the members of the Court will have recourse to their own minutes, and to the record of the Judge Advocate; and if it should appear that I have, in any respect, wilfully perverted the testimony, it would be an artifice from which I would derive no benefit.

In reviewing the testimony, the Court, I think, must at once perceive a strange variety in the statements of the different witnesses. Though the times at which the different transactions took place are all important, hardly any two of the witnesses agree in this respect.

The Court will recollect, that there are three documents in evidence, which appear to form the articles of capitulation. These are all dated on the sixteenth of August. One, purporting to be the articles of capitulation; the other purporting to be a supplement to the articles; and the third purporting to be an addition to the supplemental articles. There is also a fourth document, being a letter directed to the commanding officer of the Rapids, which purports to be an explanation of the articles of capitulation. Before I make any observations on this testimony, I will give the Court a relation of my conduct in respect to the surrender, and state the motives, which influenced me. If a departure from the forms, ceremonies, and etiquette of modern warfare, where civilized men are the

belligerents, will condemn me, I must submit. But I do persuade myself, that this Court will consider my peculiar situation, and the character of the enemy which was opposed to me; and that I will be thought excusable, if I permitted a precipitation to which some forms and pageantry were sacrificed, with a view to save from the cruelty of the savages, many brave men, and many families of parents and children.

As soon as I found that the enemy intended a serious attack upon Detroit, I knew that sooner or later my army must fall. I knew, that even victory would not save me, and could be but a temporary advantage. The certain consequences of defeat I could not contemplate without horrour. It presented a scene, which I need not attempt to describe. It is obvious, that it would have left our savage enemies to indulge, without restraint, their passion for rapine and cruelty. The small body of regulars which I had with me, I was obliged to keep in the fort, for its protection. I had no other troops that understood the management of cannon. With one third of the residue of my force absent, and with nothing to rely upon out of the fort, but untried and undisciplined militia, officered by men, most of whom were in hostility to me, and had even conspired against me, what was I to expect from a contest?

I determined at any rate, that I ought, if it were possible, to ward off the attack, and gain time, till the

detachment under colonels Mac Arthur and Cass, who were my two senior officers, might return.

The Court will recollect, that I had sent an express for them, as soon as I received general Brock's summons on the fifteenth. After the line was formed on the sixteenth, as appears by the testimony of captain Mac Commick, colonel Van Horn, and major Snelling, I visited the troops where they were drawn up. I then went to the fort, in expectation of hearing of the absent detachment; but receiving no intelligence from them, I determined to propose a cessation of hostilities to treat of a surrender. I accordingly sent a flag over the river, and when the British officer came to inquire the meaning of that flag, I sent the note to general Brock, of which major Snelling speaks. That these were my views when I sent this flag, appears by the testimony of colonel Miller, to whom I explained myself on the subject. I do not recollect what were the precise words of this note, but I think it will appear very evident to the Court, that the contents of it could not have been, as major Snelling has stated, neither more nor less than an offer of unconditional surrender. For, according to major Snelling, the first question general Brock put to him, after he had read the note, was to ask major Snelling if he "was authorized to agree on terms." No such question would have been asked if I had offered to surrender without terms.

As soon as I had determined to negotiate, I also determined to change my positions for defence. I thought

it better to draw the troops to the fort, and if I made a resistance, it was my opinion that I could do it to most advantage, by manning the fort with a full complement, and forming a line, supported on the right by the fort, and on the left by the citadel and the batteries on the bank of the river; having in front a line of pickets which extended from the fort to the citadel, and which was intended to cover the communication between one and the other. With these views and intentions, I ordered the troops to the fort, intending to post them from thence before the negotiation should break off, if there should be no terms agreed upon. When these orders were given, I had appointed colonels Brush and Miller to repair to a tent without the fort, and treat with the enemy. At this moment I received the intelligence, that the two companies mentioned by major Anderson, Knagg's and Shover's, had gone over to the enemy; and heard from colonel Brush, the declaration, that "*by God*" every man of his regiment had or would desert. The consequences of such a defection immediately occurred to me. Colonel Brush's troops had been posted to guard the upper part of the settlement. If they made no resistance, there was nothing to hinder the British and their savages from landing above the town; and, while we should be engaged with the invaders from the south, the savages would be making indiscriminate slaughter of the inhabitants, through the whole extent of the northern part of the settlement.

From this moment I determined to surrender on the best terms I could obtain. I told colonel Miller, that this was my determination. I went to the tent. Colonel Miller had not arrived there. I had mentioned to colonel Brush and the British officers, the terms I should insist upon, and concluded by saying, "I shall surrender;" meaning, on the terms I had previously mentioned. This was the declaration colonel Miller heard. After I had explained the terms I had expected, I left the tent and returned to the fort. On my arrival there, I found to my surprise that all the troops had crowded into the fort, had stacked their arms, and were in a state of entire insubordination. Let it be remembered, that neither of these steps had been taken by my orders. I had ordered colonel Findlay's regiment only into the fort; and it is not proved, or pretended, that I gave any orders for stacking the arms. I now became impatient to put the place under the protection of the British. I knew that there were thousands of the savages around us. Every moment reports were brought to me of their depredations, and in the situation in which my troops then were, I could afford no protection to the inhabitants. I was anxious, that our enemies should have the command and government, that they might be able to put a restraint on their savage allies, which I had no power to do. An additional weight on my mind, that had great influence on my conduct, was what I considered might be the dangerous situation of the detachment under colonels Mac Arthur and Cass. I thought it possible it might be at a distance, and might be

cut off. If we should unsuccessfully resist, I was sure it would. In this state of things, the articles of capitulation were brought to me from the tent, signed and executed. I accepted them. I gave a copy of them to major Jessup, as he has testified, and he afterwards read them to the troops, when they marched out at twelve o'clock. These must be considered as the articles of capitulation, and by these my conduct must be tested. For the two other documents, the one styled supplemental articles, and the other an addition to the supplemental articles, are rather to be considered as an agreement between myself and the enemy's general than as parts of the capitulation. I admit, that when these were signed I had no power to resist if he had not chosen to agree to them, and therefore they are no more to be considered as a part of the capitulation, than the letter which bears date the next day. It was these supplemental articles, which were signed in captain Dyson's quarters, and most of the witnesses, who speak of what was done before or after the capitulation was signed, obviously speak with reference to the execution of these instruments.

God knows the articles are not what I would have wished to have had them. If I had been warring with civilized man, where the blood of combatants only could be shed, I ought not, I would not have accepted them. But when upon the consequences of refusing them, depended the lives of so many innocent people, I did not feel myself authorized to reject them.

Having put before the Court the testimony which relates to this specification, and given my own account of the transactions to which it relates, I will again notice the accusations, and make some few observations upon them.

The first accusation is, that I surrendered before the capitulation was signed. This is certainly disproved. There was not an enemy in the fort before the capitulation was brought to me from the tent, nor before I delivered a copy of it to major Jessup. The testimony of colonel Miller is conclusive upon this point. He says, there were no British troops in the fort when he brought me the capitulation from the tent.

A second accusation is, that I did not stipulate for the honours of war. Among the variety of circumstances, in my situation, which I had to deplore, and which agitated my mind to a great degree, there was none that excited my own feelings more, than to find, that though this provision had been inserted in the articles, as originally drawn by the commissioners, it had been stricken out. I thought of rejecting the articles on this account. I must have then opened a new negociation. I have already stated what appeared to me as the consequences of further delay. The savages were unrestrained. I determined not to expose the lives of the inhabitants to their fury for the sake of obtaining so useless a pageantry.

The articles are also condemned, because they contained no stipulation for the security of the friendly inhabitants of Canada. With respect to the people of Canada who had been friendly to us, and who had remained in their own country when we retreated, no stipulation in their favour was necessary. The British had offered full pardon to all their subjects who had shewn any disaffection; and when the capitulation was signed, there were none in Canada who had not availed themselves of this offer. With respect to those who were with us, the capitulation does contain an article in their favour. They are unquestionably included in the third article, which provides that "private persons, and property of *every description*, "shall be respected."

But, Sir, a stipulation in favour of Canadians, who were with us at the time of the surrender, was, in fact, entirely a matter of supererogation; because, according to the best of my recollection, there was but one person of that description with us, at the time of the capitulation, and he is now an officer of rank in our army.

The evidence, that any stipulation for the security of the Canadians, other than what the articles contained, was unnecessary, is, that it is the undoubted fact, that from the time we retreated from Canada, no individual has suffered, either in his person or property, on account of any part he may have taken against his own government, or on account of any connection which he may have had with our army.

The specification states other objections to the capitulation, but as they are of an inferiour nature, and must be excusable if those I have noted are so, I shall not trouble the Court with any remarks upon them.

Something has been said in the course of the trial, as to my having after the capitulation consented to the surrender of some distant posts. It might be enough to say, that there is no specification on this subject; but I will only observe, that so far from this being a concession to the enemy, it originated in my suggestion. I reflected, that if they should hear of the capitulation, before they were informed that they were included in the surrender, they might retreat, if they should judge it in their power to do so—but if early intelligence of the surrender should not reach them, they would be exposed to the whole savage force of the enemy, and might be sacrificed, unless they were protected by the capitulation. Much testimony has also been given in relation to the situation of the British troops before the surrender, and to shew that they were suffered to approach too near our works before the capitulation was signed. It would be easy to shew the strange contradiction of testimony on this point, and to prove that such an accusation would be without foundation. But certainly the accusations against me, and which I am obliged to answer, are sufficiently numerous. The Court would hardly think me excusable in trespassing on their patience, to make a defence against accusations not preferred—

I shall therefore say nothing further as to this suggestion, than that a specification founded upon it is not to be found under any of the charges.

There is, Gentlemen, one other charge which I have to answer. It is an accusation which has been the most wounding to my feelings, and the discussion of which is the most painful task I have yet had to perform. Not because I have any doubt but that I shall convince you it is as much without foundation as any other, but because it imposes upon me the necessity of examining testimony, which no man, however innocent he may be, can repeat without disgust.

If in the embarrassing and difficult situations in which I was placed during my late command, I have committed some errours, surely what I have suffered by this prosecution, and what I must now suffer in making this part of my defence, will be some atonement.

For more than half a century I supported a character without reproach. My youth was devoted to the service of my country. I fought her battles in that war which achieved her liberty and independence, and which was ended before many of you, Gentlemen, who are my judges, were born.

If, upon any occasion, a man may speak of his own merits, it is at such a time as this, and I hope I may be permitted to present to you, in very few words, a

narrative of my life, while I was engaged in scenes which were calculated to prove a man's firmness and courage. I shall do it with the less reluctance, because the testimony I have offered of the venerable men who served with me in the revolutionary war will vouch for all I have to say.

In the year seventeen hundred and seventy-five, at the age of about twenty-one years, I was appointed a captain in one of the Connecticut regiments. During that campaign, and until March, seventeen hundred and seventy-six, when the enemy evacuated Boston, I served with the army at Cambridge and Roxbury, under the immediate command of general Washington. I was with that part of the army in March, seventeen hundred and seventy-six, which took possession of Dorchester Heights, the movement which compelled the enemy to evacuate Boston. The next day, the regiment to which I belonged marched for New-York. I was on Long Island when the enemy landed, and remained until the night the whole army retreated. I was in several small skirmishes, both on Long Island and York Island, before the army retired to the White Plains. I then belonged to colonel Charles Webb's regiment, of Connecticut.

This regiment was in the severest part of the action on Chatterdon's Hill, a little advanced of the White Plains, a few days after the main body of the army abandoned New-York. This battle is memorable in the history of our country, and the regiment to

which I belonged received the particular thanks of general Washington, in his public orders, for its bravery and good conduct on the occasion. It was particularly distinguished from all the other troops engaged in the action. I received a slight wound by a musket ball in my side, but it did not prevent me from remaining at the head of my company. I was in the battle at Trenton, when the Hessians were taken, in December, seventeen hundred and seventy-six, and being one of the youngest captains in the army, was promoted by general Washington, the day after the battle, to a majority, for my conduct on that occasion.

The first of January, seventeen hundred and seventy-seven, I was in the battle of Princeton. In the campaign of the same year, the regiment to which I belonged served in the northern army. I was early in the spring ordered to Ticonderoga, and commanded the regiment (being the senior officer present) under general Saint Clair, and I was with that officer in his retreat from that post. After general Saint Clair's army formed a junction with general Schuyler's army, on the North river, at Fort Edward, the regiment to which I belonged was detached and marched to Fort Schuyler, and relieved that post which was besieged by general Saint Ledger. On the retreat of general Schuyler's army from Fort Edward, I commanded the rear guard of the army, and being two miles in the rear, was attacked by a large body of British troops and Indians at day light in the morning, in which

action were killed and wounded between thirty and forty of my guard, and I received the particular thanks of general Schuyler for my conduct on the occasion.

I was in the two memorable battles on the nineteenth of September, and the seventh of October, on Bhemus's Heights, against general Burgoyne's army, previous to its surrender. In the action of the nineteenth September, I commanded a detachment of three hundred men, who fought the principal part of the afternoon, and more than one half of them were killed and wounded.

On the seventh of October I likewise commanded a detachment from the brigade, which assisted in attacking the enemy on the left of our position, defeated him, followed him to the right of his lines, stormed his entrenchments, and took and held possession of the right of his position, which compelled him to retreat to Saratoga, and there capitulate.

After the memorable event of the capitulation of general Burgoyne's army, the regiment to which I belonged was ordered to Pennsylvania, to join the army under the command of general Washington.

I remained with the army the winter of seventeen hundred and seventy-seven, at Valley Forge, and in the spring of seventeen hundred and seventy-eight, when the British army evacuated Philadelphia, I was in the battle of Monmouth. From December, seven-

teen hundred and seventy-eight to May seventeen hundred and seventy-nine, I commanded the American posts in advance of the White Plains, near Kingsbridge, during which time I had various skirmishes with the enemy. In May, seventeen hundred and seventy-nine, the principal part of the British army advanced up the North river to Verplancks and Stony Point, and I was ordered to retreat before them to West Point.

I then joined the light infantry under the command of general Wayne, and was in the memorable attack on Stony Point, with a separate command of four hundred light infantry.

For my conduct on this occasion, I received the particular thanks of general Wayne, general Washington, and Congress.

In the summer and autumn of seventeen hundred and eighty, I commanded the advanced posts of the army, and in December of that year I commanded an expedition against the enemy stationed at Morrisiana, which was successful, and for which I received the thanks of general Washington in his general orders to the army, and likewise the thanks of Congress.

General Washington in his orders, I well remember, made use of these words, "he thanked me for my ju-

"dicious arrangements in the plan of operation, and "for my intrepidity and valour in the execution."

From the conclusion of the revolutionary war I have lived with the respect of my countrymen, and have enjoyed repeated marks of their confidence in the offices which have been bestowed upon me. When I found that the independence for which I had so often fought was assailed; that again my country must appeal to arms to avenge her wrongs, and to protect her rights, I felt that I might yet do her some service. For though many years had passed since I had fought under her standard, and though my arm might not have its wonted strength, yet my *spirit* was unbroken, and my devotion to her unimpaired. I thought, in the field, where there could be but few who had any military experience, what I had learned in the most active scenes of a seven years war, might be useful. I fondly hoped that in my age, as well as in my youth, I might render services that should deserve the gratitude of my country. That if I fell by the sword of her enemies, my grave would be moistened with the tears of my countrymen, that my descendants would be proud of my name and fame: but how vain is anticipation! I am now accused of crimes which would blast my former honours, and transmit my memory with infamy to posterity. And in that hideous catalogue, there is none from the imputation of which my nature and my feelings have more recoiled than from that of cowardice, to which I am now to answer. I shall confine myself under

this charge to the specifications, or to such part of the specifications, as relate to my personal deportment.

Almost every omission or commission during the campaign, which it has been thought proper to censure, has been assembled under this charge, and they have all been imputed to *cowardice.* But as most of the acts have been specified in support of other charges, I shall not again notice them, but confine myself to the allegation that I shewed personal fear and a want of courage.

However painful the recapitulation of the testimony on this point must be to me, it is so necessary that it should be brought together, to the end you may have it before you in one view, that I shall go through the disagreeable task of repeating it.

The first witness in point of fact, as well as of importance, is major Snelling. He was a captain when he joined the army at Urbana; but is now a colonel.

He testifies as follows. "During the cannonade I "frequently saw the General. I once saw him stand- "ing; he might have risen twice; most of the time he "was sitting on an old tent, under the curtain of the "fort opposite the enemy's batteries.

"I have been taught to believe, that there are cer- "tain human passions which are indicated by appear-

"ances, and the appearances of general Hull accord-
"ing to my mind indicated fear.

"The reasons that induced me to draw that con-
"clusion were, that the General selected the safest
"place in the fort for his seat; his voice trembled
"when he spoke; he apparently unconsciously filled
"his mouth with tobacco, so that his cheeks were
"extended by it; the saliva ran from his mouth on
"his neckcloth and cloaths; he often rubbed his
"face with his hands, and distributed the tobacco
"juice about his face."

He further testified in his cross-examination, that when he returned from Spring Wells, at the dawn of day on the morning of the sixteenth, he went into the fort to make his report to general Hull, but could not find him, nor find any one who knew where he was.

He said, he did not know if general Hull was in the fort at the time the officers were killed. He saw him immediately afterwards. After the men were killed it might have been fifteen or twenty minutes before he saw captain Hull with the white flag. It might have been an hour, but he did not think it was.

The witness could not say that he saw general Hull in the situation he has described between the time the men were killed and the sending the flag by captain Hull. He recollects that at the time captain

Hull was fixing the flag, general Hull was standing, and was in the situation he has described. General Hull was out of the fort early that morning, but the witness does not know where he was. At the time the enemy was crossing, the General was standing on the parade.

I wish the Court to notice the great attention, which major Snelling paid, to be particular in very minute circumstances in giving his testimony; not only as to the positions in which he saw me, but when his examination was read over to him, and he found that, as it stood, it represented him as saying that I had distributed the tobacco over my face, he desired it might be corrected, so as to state that what he had said, was confined to the *lower* part of my face.

Captain Mac Commick testifies as follows, "I was "not present when colonel Findlay received orders "to march into the fort. I joined him as he was "going into the fort; he told me of the order, and said "he would not obey it; but would go into the fort "himself, and directed me to form the regiment. "The colonel then came back so near to me, as to "tell me to let the companies march up, and I did "so." The witness then relates what passed between colonel Findlay and myself, and proceeds as follows. "The General appeared very much agitated. He "appeared to be under as much alarm as I ever saw "a person. He had been chewing tobacco, and the

"lower part of his face and his vest were covered "with it."

On his cross examination he testified, that it might have been ten minutes, or half an hour, or more, after the firing ceased, before the troops were ordered to march into the fort;—that it was at least half an hour after the firing before the witness went into the fort;—that he saw me once that morning out of the fort, and thinks I was near where colonel Findlay's regiment was forming the line of battle behind the picket fence. Colonel Van Horn, who was a major of colonel Findlay's corps, testifies, that after colonel Findlay's regiment was formed on the morning of the sixteenth of August, and about an hour or half an hour before the flag was hoisted, I was at the line;—that this was during the cannonade;—that at about the time the firing ceased, captain Snelling came, with orders that colonel Findlay should return with his regiment to the fort;—the cannonade had then ceased;—the witness turned round, and saw the flag hoisted on the fort. The witness further stated, that he then went into the fort with his battalion, and after he got in he saw me, but is not certain whether I was there when he entered. The witness then proceeded as follows, "when I first saw general Hull "he was on the steps going into one of the rooms. "His face was discoloured with tobacco juice. It was "over the lower part of his face, and a spot was over "his eye. I thought he was under the influence of "fear. I had no doubt of it." On his cross-exami-

nation he says, that he saw me on the night of the fifteenth, and as he thinks, about midnight, and before the cannonading had ceased, at the place where colonel Findlay's regiment was formed that night. He saw me the next morning out of the fort at colonel Findlay's quarters, and again at the line of battle. When the witness was asked, whether care and anxiety might not have produced the appearance he described, he answered, that care and anxiety might have added to those appearances, but upon comparing faces he thought mine had the indication of fear.

Captain Baker testifies as follows, "I saw general "Hull on the morning of the sixteenth. He appeared "to be embarrassed, and at a loss how to act. I had "but one opinion, which was that he was under the "influence of personal fear. I could not account for "the surrender in any other way." On his cross-examination he said, "on the morning of the sixteenth, "during the cannonade, I saw the General in the "fort sometimes sitting, sometimes walking, and "sometimes standing."

Lieutenant Stansbury testifies, that on the night of the fifteenth of August, he found me at about eleven o'clock at night, lying on the piazza of the barracks in the fort, with my boots and cloaths on;—that in the morning when he awoke at day break I was not there. "I saw the General," says he, "on a tolerably "safe place; as to his being afraid, I cannot say whe-"ther he was or not." "I saw the General on the

"parade ground. I did not see any necessity for his "exposing himself more than he did."

Major Jessup testifies, that on the fifteenth, after the cannonade commenced, he in company with Mr. Dugan met me on horseback in the street near the second battery. He says, "the General appeared to "be agitated; either Mr. Dugan or myself observed, "the General was frightened; one of us said, we "must cheer him up. We approached him, spoke to "him, he appeared pale and confused, immediately "dismounted and led his horse towards the fort."

"I did not see general Hull till about break of day "on the morning of the sixteenth, when the General "came to my tent, and directed me to write an order "for the return of colonels Cass and Mac Arthur."

The witness further testifies, that shortly after the enemy commenced their fire, at the request of colonel Findlay, he went to me to have an explanation of an order which had been delivered by my aid-de-camp;—that he found me and received directions from me, for forming the line of battle;—that while he was attempting to collect some dragoons, of which I had directed him to take the command, he saw that our line was breaking and retreating towards the fort;—he then looked towards the fort, and saw the white flag flying from it;—that at the request of colonel Findlay, he then went to the fort. The witness then proceeds as follows, "I found the General

"in the fort. I thought him very much frightened. "When I met him, I inquired of him, if it were pos- "sible we were about to surrender. He said some- "thing about terms, and something about the enemy's "force, which I do not recollect. His voice at that "time was tremulous. I observed, we could at least "hold out till joined by colonels Cass and Mac Ar- "thur. He replied, my God, what shall I do with "these women and children!" The witness then states, that he left the fort, went to colonel Findlay, and did not see me till terms of capitulation had been agreed upon;—that then I was perfectly composed. The witness also testifies as follows:—"When I came "to report to the General, after reconnoitring the "enemy, I found him on the side of the fort next the "enemy, completely sheltered, sitting on a tent be- "side a bed. At the same time I reported that our "guard, the most advanced towards the enemy, had "surrendered. The General said that colonel Brush "had reported to him that his men were leaving him. "After this when I met the General in the fort, and "after the flag was hoisted, he exclaimed that four "men had been killed by one shot;—he appeared so "alarmed as not to know what he was doing." The witness then describes my appearance at that time nearly in the words which had been used by other witnesses.

The witness on a subsequent part of his examination stated, that at the moment when he was in conversation with me on the evening of the fifteenth,

near the second battery, a shot struck a stone house near me;—that I appeared much agitated, dismounted my horse, and walked off without making him a reply. "Whenever I saw the General," says the witness, "before the capitulation was signed, he appeared agi- "tated; afterward, entirely composed. Whether the "agitation proceeded from the novelty of his situa- "tion or fear, I cannot say, but I believe the latter, "if not both."

Captain Eustman testifies as follows, "on the even- "ing of the fifteenth, a shell appeared to be coming "into the fort. General Hull ran towards the north- "west bastion, apparently to avoid it, and to get un- "der cover of the platform. The General appeared "alarmed and frightened, as I also observed to my "companions at the time."

Lieutenant Philips testifies as follows, "I saw ge- "neral Hull on the morning of the sixteenth. Most "part of the time during the cannonade he was sitting "with his back to the parapet next the enemy. He "was sitting there with a number of gentlemen. I re- "collect one gentleman and one lady near to him. He "appeared to me under the influence of fear. He ap- "peared very much agitated. I think doctor Cun- "ningham was the gentleman that was with him. "There might have been other officers with him, but "I do not recollect."

Colonel Miller testifies as follows, "I did not dis-
"cover any agitation in the General on the fifteenth.
"On the sixteenth he did appear much agitated. He
"was on the fort. He was sometimes sitting, some-
"times standing, and sometimes walking. Whether
"his agitation proceeded from anxiety on account of
"the responsibility he was taking, or from personal
"alarm, I cannot say. After the surrender he told
"me he was afraid, if he had fought the enemy, they
"would have taken advantage of that part of his pro-
"clamation, which declared that no white man taken
"fighting with an Indian should be spared."

On his cross-examination, colonel Miller said, "I
"saw no act of the General's on the morning of the
"sixteenth which I can say might not have proceed-
"ed from the fatigue and responsibility he was under."

I put to colonel Miller the following question:—Can you mention any act of mine on the sixteenth, which you did then or do now impute to personal fear?—To this the witness answered:—"Yes, I did think "such an immediate surrender must have proceeded "from your fears."

To the following question:—Did you see me, while I was in the fort, in any place or situation unfit for a commanding officer?—The Colonel answered:—"I "can describe to the Court where the General was, "and the Court can judge."

" He was generally near the easterly parapet of the " fort. I was there part of the time myself. The " General leaned down. The whole easterly side of " the fort was as safe as the spot where the General " was for the most part of the time. The General's " station was the most convenient to receive commu- " nications from without the fort."

Colonel Miller, upon a re-examination, further testifies, that he had frequently observed a habit which I had when I was much engaged, of chewing tobacco to excess, and taking it from my mouth with my fingers, and rolling it in my fingers, and putting it in my mouth again, and rolling it from my mouth to my fingers alternately. That he observed more of this habit on the sixteenth than usual, and thought the addition might be owing to want of rest from fatigue.

Major Whistler says, my appearance induced him to think I was under the influence of personal fear.

Lieutenant Peckham testifies, that he saw me on the sixteenth of August, and says, " I had no doubt " but that the General was under the influence of per- " sonal fear, from his embarrassment, as he sat still and " gave no orders."

Major Munson testifies, that he saw me on the fifteenth of August, and saw me again on the sixteenth, after the capitulation was settled. He adds, " The " General's situation was critical. If he had had any

"feelings, he must have had great care and anxiety. I "saw nothing which might not have been accounted "for, without resorting to the impression of personal "fear." On his cross-examination by the Court, this witness says, "It was ten or fifteen minutes after the "officers were killed, that he saw me sitting in one of "the officers' quarters; but does not recollect that it "was during the cannonade, either on the fifteenth or "sixteenth, that he saw me."

Captain Maxwell testifies, that he served in the revolutionary war; was engaged in the affair at Brownstown under colonel Miller, which made the twenty-third battle in which he had fought;—that after the cannonading commenced on the fifteenth, he saw me on horseback at one of the batteries;—that I had a conversation with the officer commanding at the time the balls were passing and repassing;—that he took notice of my countenance, and that I appeared firm, collected, and cool;—that I sat four or five minutes on my horse, and rode off again;—that he did not see me on the sixteenth;—that at the time the army was retreating from Sandwich, there was a clamour, that I was intimidated, and that was the reason why, on the evening of the sixteenth, he particularly observed my countenance.

General Taylor testifies, that he saw me several times on the evening of the fifteenth, during the cannonade;—that there was no impression made on his mind of my being under personal fear on that day or

evening;—that I appeared to be thoughtful and very low spirited;—that he heard no indication of inspiriting the men;—that my countenance was dull;—that he saw me near the gateway, and that I ordered colonel Findlay to move from the upper to the lower side of the fort, without any specific orders how to form. Early on the sixteenth, information came that the enemy were preparing to cross, and no orders were given to resist them;—that my appearance displayed more of the marks of tobacco than he had generally seen in a neat man;—that his impression was, that I was under the influence of personal fear;—that he did not see me again till the flag was hoisted;—that when he saw me near the gate on the sixteenth, he saw many officers with me, and among the rest captain Snelling;—that he did not consider being there as shrinking from danger.

Captain Bacon testifies, that he saw me in the fort very frequently on the fifteenth and sixteenth;—that on the sixteenth he saw me, with doctor Cunningham and his wife, sitting on some planks;—that he also saw other persons there, some of whom he thinks were officers;—that during the cannonade he saw me on the parapet of the fort, once on the evening of the fifteenth, and once on the sixteenth;—that he saw me in different places about the garrison, during the cannonade;—that I seemed engaged as usual, but agitated on the morning of the sixteenth more than common;—that he did not know the cause;—that he had no suspicion that it was personal fear, neither did he hear such a

suspicion expressed by any of the officers;—that after the shot came in which did execution, the officers and men very generally were in the eastern side of the fort, under the protection of the parapet next the enemy.

Judge Witherell testifies, that he saw me on the fifteenth, during the cannonade, near one of our batteries, when, from all he saw, I was cool and collected.

I believe, Gentlemen, I have now collected and presented to you in connection, every syllable of the testimony which has been offered in support of the specifications under this charge which relate to my personal appearance and deportment. Such parts of the testimony as have the most bearing, I have endeavoured to repeat in the witnesses' own words, and have done it with as much accuracy as the notes taken by my counsel would permit.

Before, Gentlemen, I proceed further on the examination of this testimony, allow me to lay before you an extract from an author of great respectability, containing rules not inapplicable to the present occasion, by which the credibility of a witness ought to be tested.

"A witness," says Mr. Tytler, in his essay on Military Law, "who amplifies his testimony, unneces-
"sarily enlarging upon circumstances unfavourable to
"a party; who seems to be gratified by the opportu-
"nity of furnishing condemnatory evidence, or mani-

" festly betrays passion or prejudice in the substance of " his testimony, or in the manner of delivering it, is " to be listened to with suspicion of his veracity. If " a witness," the author adds, " takes upon him to re- " member with the greatest minuteness all the cir- " cumstances of a transaction long since passed, and " which are of a frivolous nature, and not likely to " dwell on the memory, his testimony is thereby ren- " dered very suspicious."

I ask the members to test the testimony which has been given against me by these rules. Were there not many of the witnesses who amplified their testimony, and unnecessarily enlarged upon circumstances unfavourable to me; who seemed to be gratified by the opportunity of furnishing condemnatory evidence? I appeal to the Court to judge of the manner in which the testimony of some of the witnesses was delivered, and whether they did not betray a warmth, that could not leave them free from a suspicion of strong prejudice or bias?

Major Snelling has certainly taken upon himself to remember with the greatest minuteness circumstances of a frivolous nature. He remembered that my cheeks were swelled with the tobacco I put in my mouth. He remembered that my neckcloth and vest were soiled, and the tobacco was distributed about my face. And when his examination was read over to him, his recollection was so extremely accurate as to the most minute circumstance, that he insisted

that what had been written, should be so corrected, as to read that it was the lower part of my face which was soiled. Though, on this particular, he is contradicted by colonel Van Horn, who it appears was no less observing of minute circumstances, and whose memory is not less tenacious of them. Colonel Van Horn recollects, and has been very particular in stating, that there was a mark made by the tobacco over one of my eyes. He was so very minute as to observe, that it was over my left eye, though I believe it is not so recorded in his testimony.

Major Snelling's correction, with respect to the situation of the tobacco on my face, will not appear in the record of his testimony. But it will be brought to the remembrance of the Court, by my reminding them, that when major Snelling proposed the alteration in the record, so as to state that he meant to have spoken only of the lower part of my face, I objected to its being altered in the minutes, and wished that it might appear from the record of the evidence, that this was a correction of his.

But, Gentlemen, the opinion of major Snelling that I was under the influence of personal fear, as well as the same opinion of other witnesses, who have very nearly followed his words in their description, is formed, as they avow, from my appearance, and from my situation and conduct in the fort.

A correct and certain judgment of the emotions of the mind from indications of the countenance, or from mere personal appearances, can hardly ever be formed. And it must be infinitely difficult to do so when fatigue, anxiety, and a great responsibility may, all at the same time, be producing their effect.

Major Snelling, though a very young gentleman, it is to be presumed has great acquirements, and it would seem from his testimony, that the human passions have been the objects of his study. He introduces his testimony on this point, with these words: "I have been taught to believe that there are certain "human passions which are indicated by appearances, "and the appearance of general Hull, in my mind, "indicated fear."

I hope that these professions of major Snelling will not give his opinion an undue weight, because he has not told us in what school he acquired his science in physiognomy. Nor has he given us the rules by which, when the mind may be under various excitements, he can distinguish the appearances which will indicate the prevalence of one over the other.

Major Snelling, I have no doubt, when he gains more age and experience, will find that the indications of appearances in respect to the human mind are fallacious. His own case may afford an evidence of it.

I myself, and many who heard his testimony, and that of many other of the witnesses, and marked the manner of it, *thought* that they manifested great passion and prejudice against me; that they seemed gratified with the opportunity of furnishing condemnatory evidence. These appearances may have been fallacious, but if they were so, it is strong evidence that the most erroneous conclusions may be drawn from expressions of countenance, tone of voice, and eagerness of manner.

I beg it may be observed, that most of the witnesses, except major Snelling, who have given their testimony on this point, did not see me in the fort, till after the flag was hoisted, when there was of course a cessation of hostilities, nor till after I returned from the tent. The witnesses have all endeavoured to impress on the minds of the Court, that I intended in all events to make an unconditional surrender. If this were the case, where was the occasion for personal fear, after I had invited, by the flag, a negotiation, and had stopped the enemy's fire? Major Jessup says, that when he saw me before the capitulation was signed, I appeared greatly agitated, but that afterwards I was entirely composed. And yet, as major Jessup did not see me in the fort on the sixteenth, till after the negotiation was commenced, there was no more ground for agitation from personal fear, when he saw me on that day previously to the capitulation, than there was after that event.

There is a part of major Jessup's testimony, which is certainly worthy of remark. His power of judging of the human passions from appearances is even superiour to major Snelling's, because, from his testimony, it seems he can perceive the appearances, when the object is at some distance. He states, that when he and Mr. Dugan saw me on horseback, on the fifteenth, I appeared to be frightened, one of them said, we must cheer him up; we then approached him, says the witness, and spoke to him; he appeared pale, &c. So that they had, according to this testimony, perceived that I was frightened, while I was on horseback, in the face of the enemy's fire, and before they had approached me, or spoke to me.

I do not deny that on the morning of the sixteenth I was greatly agitated. My body was worn with fatigue, and my mind was filled with the deepest anxiety. On the one hand, I well knew the consequences of a surrender. I knew how unfortunate it was for my country, that I should be obliged to yield. I saw the consequences to myself, I knew that the disappointment of the high expectations which had been raised, would be charged to me. And that all the faults of others, to which, in fact, the failure of the expedition was owing, would be laid at my door. I saw too, what was intended to be the effect of the opposition of my officers to a measure, they knew I must, or would pursue. In proportion as they found me decided on this final step, they became insolent in their opposition, and were most so when it was ascertained, that

they would not meet the enemy, and could not be punished by me. They foresaw, that great reputation was to be purchased at so cheap a rate, as appearing highly averse to the surrender, and afterward publishing to the world all they said and did, as evidence of my criminality and their own heroism.

While all these considerations enlisted every private feeling against the surrender; my mind was agitated by the opposite demands of duty. The dreadful consequence of unsuccessful resistance, or indeed, of any thing less than a most decisive victory, filled my thoughts. In the midst of a people, among whom I had lived so long, as to be known to almost every inhabitant, all of whom looked to me for protection, and many of whom had sought safety in the fort; I could not reflect on the horrours of a general massacre, which would have been the consequence of a defeat, without emotion. He, who in such a situation, could have been perfectly tranquil, whose appearances should have discovered no agitation, must have been either less, or more than man. He must have been denied the sensibilities common to our nature, or been endowed with faculties more than human.

When the Court considers my situation, how many causes there were to excite strong emotion, will they believe that the witnesses, who have testified on this point, were capable of such discrimination, as would enable them to ascertain, that the appearances which they have described, proceeded from personal fear?

Major Snelling professed to have been instructed in this branch of science. But captain Mac Commick, who was not in the fort till after Findlay's regiment had marched in, made no such pretensions. He appeared to found his judgment on his natural instinct, and indeed he did right not to make a claim, which was beyond the first stage of civilization; to which rank, notwithstanding his tawdry regimentals, it was evident he belonged.

Several of the witnesses have given their opinion on this subject, with less confidence, and some qualifications. Colonel Van Horn has admitted that *care* and *anxiety* might have added to the appearances which he described. His belief, however, as to what related to personal fear, he says, he formed from a comparison of faces, by which he judged, that mine indicated fear.

I believe, Sir, that in the comparison of countenances, when I was surrounded by my officers at the time of the surrender, a vast difference might have been observed, between the expression of many of theirs and mine. If my countenance expressed what I felt, it must have shewn traces of the painful anxiety by which I had been oppressed, and marks of the deepest regret for the measures I had been obliged to pursue; while other faces might perhaps have beamed with the exultation, which the minds of some can feel, when they look upon what they may think a fallen man.

Possibly, there may have been around me, those who felt, and whose countenances expressed a joy, that by the capitulation, they had purchased personal security, and avoided a bloody contest, at the expense, as they supposed, of my character and honour.

General Taylor also concluded from my appearance that I was under the influence of personal fear. He gives you the grounds, on which he drew his conclusion. They are, that I appeared thoughtful, and very low spirited;—that my countenance was dull, and that he saw about me more of the marks of tobacco, than was consistent with neatness. Are these grounds which will warrant a conclusion, that is to affect the life of a man? As to what has been said on this disgusting subject of the tobacco, I will dismiss it as to all the witnesses, with a reference to the testimony of colonel Miller, who proves, that I had a habit, which might have produced all the appearances, which the witnesses say my chewing had produced. It is known, that where there is a habit of using tobacco, it is commonly, unconsciously, taken to excess, whenever the mind is much occupied. Even *the excitement* that some of the witnesses, who use tobacco, felt, while they were under examination, deluged this floor with their expectorations.

Major Munson saw me in the fort, fifteen minutes after the officers were killed. He does not recollect, that the cannonade then continued; but I beg the Court to remark, that he speaks of a time, to which

the testimony of many of the officers who have spoken of my personal appearance, must refer. He says, he saw nothing which might not have been accounted for, without resorting to the supposition of personal fear.

Captain Maxwell did not see me on the sixteenth, but on the fifteenth he saw me in a situation, where I was exposed to the fire of the enemy. He says that I was collected and cool. He informs you, why he was induced to notice my appearance, and his testimony is of some importance, because it shews, that as early as the retreat from Canada, my officers had begun to propagate imputations on my courage; and because his testimony must relate to the same time, when major Jessup says, he saw me on horseback, and observed such strong indications of fear. If, Sir, the opinions of these two witnesses are in opposition, the Court must determine, whether they will rely on the veteran, who has been twenty-three times engaged with the enemies of his country, or the young gentleman who, at the time he speaks of, was about twenty-five years of age, and who knew no more of battles, than what he had heard or learned from books. The testimony of judge Witherell, who was a revolutionary officer, who also saw me on the evening of the fifteenth, is likewise in opposition to the testimony of major Jessup.

Captain Bacon says, I was much agitated on the morning of the sixteenth, but that he had no suspicion

it was personal fear; neither did he hear such a suspicion expressed by any of the officers.

The deposition of major Anderson, I have not been able to procure in time, to submit to my counsel, previously to my defence being closed. It is very important, not only as it respects the point now under consideration, but the Court will find, that there is a great variation between his testimony, and that of general Mac Arthur, in relation to the fortification at Sandwich, but as I would not ask another postponement of the Court, for the sake of making any further observations on the testimony of major Anderson, I must rely upon the Court to examine his deposition, and to give his testimony its due weight.

There are some of the witnesses who have given a more naked opinion, that I was under the influence of personal fear, without assigning any reasons for their opinion, whose testimony I shall not notice. It is impossible it can have any influence in the minds of the Court.

Major Jessup said, that whether the agitation which he described, proceeded from the novelty of my situation, or fear, he could not say, but he believed the latter, if not both. Captain Baker said, he was of opinion, that I was under the influence of fear, as he could not account for the surrender in any other way. This explanation of captain Baker may afford a key to much of the testimony on this point. He, like

many other of the officers, thought the surrender unnecessary. They did not concern themselves with considerations of what might be the consequences of resistance. They therefore saw no other motive for the step I had taken, than my own fears. They therefore, when questioned on this point, said, they thought I was under the influence of personal fear, because I surrendered.

I beg the Court to note, that colonel Miller's answer to the interrogatory put to him on this subject, is to the same effect, although he was stationed in the fort, and I had been in his sight whenever I was in the fortress, from the commencement of the cannonade, till the surrender. He says, he saw no conduct of mine, which might not have proceeded from fatigue, and the responsibility of my situation, and that he could mention no act of mine, which he did then, or does now, impute to personal fear, but the surrender; and yet colonel Miller had better opportunities of observing me, than any other witness. He was an older, and a more experienced soldier, than any who have given their testimony; many of whom heard the report of an enemy's gun for the first, at the time to which their testimony relates.

If, Gentlemen, your decision upon this point could rest upon the weight of the opinions given by the witnesses called by the Judge Advocate, the preponderance would be in my favour. The opinions of colonel Miller, he having been placed in a situation

which gave him such superiour advantages for continual deliberate observation, must deserve more respect, than the testimony of all the inexperienced and young men, who only saw me occasionally, on the morning of the sixteenth, and who have attempted to support this charge by their opinions.

So far as any of the witnesses have founded their opinion, that I was under the influence of personal fear, from the act of surrender, as is the case with colonel Miller, and captain Baker, and others, their testimony can have no weight. The Court have the same opportunity of drawing a conclusion from that fact, that they had. I have endeavoured to satisfy the Court, that that act was justifiable, or at least, that I had strong reasons for thinking it so, and if this were the case, it cannot be made the ground of condemnation, because witnesses may have made it the foundation of their opinion of my want of courage.

But, Gentlemen, there is no example of the opinion of witnesses on this subject, ever having been received as evidence on which to ground a conviction. Expressions of the human countenance, and the manners of men, are but fallible indications of the workings of the human mind. The difference in appearances, produced by the excitements of different passions, are too subtle, to admit of observations, from which any certain conclusions may be drawn—much depends upon constitution, and often much upon the temporary physical condition of the body.

A man, worn with fatigue of body or mind, and pressed with a thousand dreadful anxieties, may, though on the point of inevitable destruction, forget his own fate, and be moved only by the condition of those around him, while the superficial observer would impute his agitation to the dread of death. The uneducated spectator, who has not been taught, as major Snelling has been, the indications of the human passions, would most probably see, in the countenance and manner of the Laocoon, only expressions of terror and bodily pain; and would not understand, that the artist has expressed, in the countenance and convulsive agitation of a dying father, agony of mind excited by the torture of his expiring children.

There never has been, and in justice, never can be a conviction, under this charge of cowardice, but where a want of courage is indicated, by the *omission*, or *commission* of some act in violation of the duty of the person, against whom the charge is made.

I shall conclude my observations upon that part of the evidence, which relates to my personal appearance, with some extracts from an English historian, who gives an account of the trial of Lord George Sackville, who was tried for misconduct at the battle of Minden. Dr. Smollet having stated, that some testimony was given to prove, that when certain orders were delivered to Lord George, he was alarmed in a very great degree, and seemed in the utmost confusion; subjoins remarks, from which the follow-

ing are extracts: "The candid reader will of himself "determine, whether a man's *heart* is to be judged "by any change of his *complexion*. Granting such a "change to have happened, whether it was likely, "that an officer, who had been more than once in "actual service, and behaved without reproach, so as "to attain an eminent rank in the army, should ex- "hibit symptoms of fear or confusion, when in reality "there was no appearance of danger.

"With respect to the imputation of cowardice le- "velled at Lord George, by the unthinking multitude, "and circulated with such industry and clamour, we "ought to consider it as a mob accusation, which the "bravest of men, even the great Duke of Marlborough "could not escape. We ought to view it as a dan- "gerous suspicion, which strikes at the root of cha- "racter, and may blast that honour in a moment, "which the soldier has acquired, in a long course of "painful services, and at the continual hazard of his "life. We ought to distrust it as a malignant charge, "altogether inconsistent with the former conduct of "the person accused."

The testimony of some of the witnesses appears to have been intended to prove, that I manifested a want of courage, by certain acts during the cannonade, as well on the fifteenth as on the sixteenth. These are, that on the fifteenth, I dismounted and went towards the fort, when a shot struck a house

near me; that I avoided a shell which appeared to be coming into the fort; and that I remained in the fort in a place of security, during the cannonade.

It does appear to me, Gentlemen, that if all these facts were exactly as the witnesses would wish them to appear, they would not support any charge.

If I found myself unnecessarily exposed to the shot of the enemy by being on horseback, was it not my duty to dismount? Is it to be considered a dereliction of duty in an officer, to avoid the explosion of a shell? Or is it unjustifiable in a commander, when in a fortress that is bombarded, to put himself in a place of security, provided he be in such situation, as that he may give his orders, and perform the necessary duty of his station? Judging from what I have seen of service, with the bravest men our country ever produced, I may venture to say, that the Court would answer these questions in the negative. But yet I must ask the patience of the Court while I give the testimony which has been offered on one of these points, (that is to say,) my remaining in the fort, and my situation there, a slight examination. The others I do not think worthy my attention.

Major Snelling went into the fort when he returned on the morning of the sixteenth from Spring Wells. He was roused from a repose, after having been at a post all night, by the commencement of the cannonade. He remained there till after the flag went out,

when he was sent with orders to colonel Findlay's regiment. He appears to have returned to the fort again, about the time that the British officers went into captain Dyson's quarters. In short, major Snelling was in the fort, according to his account, during the whole time of the cannonade on the sixteenth, and until the British troops marched in, with the exception of a very short interval between the sending of the flag and the final surrender. Now, during the time of the cannonade, major Snelling saw me standing but once. His memory is so extremely tenacious of the minutest circumstances, even of a frivolous nature, that he will only admit as a possibility, that I may have risen twice. The words of major Snelling are,

"During the cannonade, I frequently saw the Ge-
"neral. I once saw him standing; he might have
"risen twice; most of the time he was sitting on an
"old tent, under the curtain of the fort, opposite the
"enemy's batteries."

Whether I was sitting or standing in the situation which major Snelling describes, is immaterial. I should have been equally safe in either position. It is, therefore, extraordinary that so unimportant a circumstance should have made such a lasting impression on his mind.

The testimony, however, of the other witnesses called by the Judge Advocate does not appear to correspond with the recollection of major Snelling.

General Taylor's testimony is certainly worthy of remark. It appears, that though major Snelling thought, that my taking a position under cover of the parapet of the fort during the cannonade was evidence of cowardice, yet *major Snelling himself*, it seems, thought he was at liberty to avail himself of the very same protection. General Taylor says, he saw major Snelling, as well as many other of the officers, in the same situation that I generally occupied, during the firing, when I was in the fort.

Captain Baker says, "on the morning of the six-"teenth, during the cannonade, I saw the General in "the fort, sometimes sitting, sometimes walking, and "sometimes standing." Colonel Miller also states, that I was sometimes sitting, sometimes standing, and sometimes walking.

Indeed, there could have been no reason for my remaining precisely in one situation during the cannonade, if I had been actuated by an undue regard to personal safety. For it appears, that the whole eastern side of the fort was as secure in one part as another. If there were any reasons for giving preference to the spot where the witnesses say I was sitting, it is, that it was near the gate, a situation where I could easily be found, and where it was most convenient, as colonel Miller has testified, to receive reports, and to give my orders.

From this post, I had the whole interiour of the fort under my view, and could communicate my or-

ders to any part. Was I not then in a proper situation for a commander? The Court will recollect, that colonel Miller states, that he himself was sometimes with me, while I was in the place the witnesses have described. And the fact is, that every officer in the fort placed himself under the protection of the eastern parapet, when his duty did not require that he should be in a more exposed situation.

But it has been attempted to prove, that I remained in the fort, and took no measures, and issued no orders for a disposition of the troops, after the cannonade commenced.

Major Jessup states, that shortly after the answer had been returned to the British summons on the fifteenth, he met me on horseback, and that I then gave him directions for the disposition which was to be made of the troops, for the defence of the town. It is also proved by the testimony of major Jessup, that in the evening of the fifteenth, I was on horseback, visiting the batteries while the cannonade continued.

Major Munson met me on the same evening on horseback, when I was visiting the posts. Major Jessup said, he met me on the night of the fifteenth, at about midnight, at the position which colonel Findlay's corps had taken up for that night. I was also, as he testifies, at his quarters about day break on the morning of the sixteenth, while he was writing by candle light, and gave him directions to despatch an

order for colonels Mac Arthur and Cass. And captain Mac Commick testifies, that he saw me on horseback at the time on which the troops were formed, a short time before the firing ceased. Several other witnesses prove, that they saw me out of the fort at several times, as well on the fifteenth, as the sixteenth. What foundation is there, therefore, for the charge, that during the whole time of the cannonade I took shelter in the fort?

Major Snelling's testimony is so important, as to my personal appearance, that I cannot but direct the attention of the Court to any circumstance in his testimony on any other point, which I think may develop the spirit or disposition with which he has testified. With this view, I beg the Court to notice, that major Snelling has testified, that when he returned from the Spring Wells, on the morning of the sixteenth, at dawn of day, he went into the fort to make his report to me. "But," says the major, "I "could not find the General, nor find any one who "knew where he was." It has been proved by other witnesses, that I was out of the fort at that time. Now, when major Snelling could not find me in the fort, nor find any body that knew I was there, it seems to me, he might have ventured to say, I was not in the fort at that time. I do think, he had at least as good grounds to draw that conclusion, as he had to infer, that I was under personal fear, from the appearances he observed. Major Snelling does, in a subsequent part of his examination, say, that I was

out of the fort early that morning. But whether this refers to the time when he made his report or not, I do not know.

I have now, Gentlemen, done with this charge, so far as it respects my personal appearance and deportment. You, who I am to presume, and do believe are brave and honourable men, will judge of what I must have suffered, to have sat here day after day, listening to imputations, of all others the most wounding to the feelings of a soldier; to have these imputations cast upon me, by representations intended to make me appear abjectly and disgustingly base; to be obliged to hear my name and fame polluted by the testimony which has been given; to be obliged to repeat the language of the witnesses in my defence, are in themselves punishments hardly inferiour to that, which would be the consequence of your pronouncing me guilty. But, Gentlemen, of that, upon this charge of cowardice, I am bold to say I have no dread.

I have fought more battles, than many of the young men who have impeached me of this crime, have numbered years.

I appeal to the history that bears record of those who were engaged in the bloody contests for our liberties. There you shall often find my *name*, but not as a coward!

I have brought before you the testimony of the few who remain of those, who were my companions in arms, in times that tried men's souls. Do they say I am a coward?

I invoke the spirits of the departed heroes, who have died at my side by the sword of the enemy, to say if I am a coward!

I would call the shades of Gates, Wayne, Schuyler, and of Washington, to tell you how often they have led me to battle, and to say if they found me a coward.

Will you believe, that the spirit, which has so often prompted me to risk my life for my country, should now so far have forsaken me, as that I should have become a traitor and a coward?

Will you believe, that the years in which I have grown gray in my country's service, should so far have changed my nature, as that I could have been the base and abject thing my enemies have represented?

No, Gentlemen, that blood which animated my youth, age has not chilled. I at this moment feel its influence, and it makes me dare to say, that no man ever did, or can think me a coward.

Before I conclude, permit me to say a few words. It may be thought, that I have spoken of the officers

who have been witnesses against me, with too much asperity. They have, in my opinion, forfeited all claims to my respect; but I do not mean to charge any of them with wilful perjury. I believe they have imbibed a prejudice and bias against me, which has influenced the perceptions of their own minds.

My object, by the examination I have given their testimony, has been to make that bias and prejudice appear to you. Many of them are young men, who give their country great promise. Many of them, I believe, have good hearts; and such I know will one day regret, that they should have yielded to an influence, which has induced them to represent me in colours that they will be conscious I have not deserved. I know the time will come, when they will consider how they courted my favour when I was in power, and how they treated me when they thought I was in disgrace, and saw me in adversity.

When that time comes, as come I am sure it will, let it be a consolation to them to know, that whatever may be my fate, I pity and from my heart forgive them.

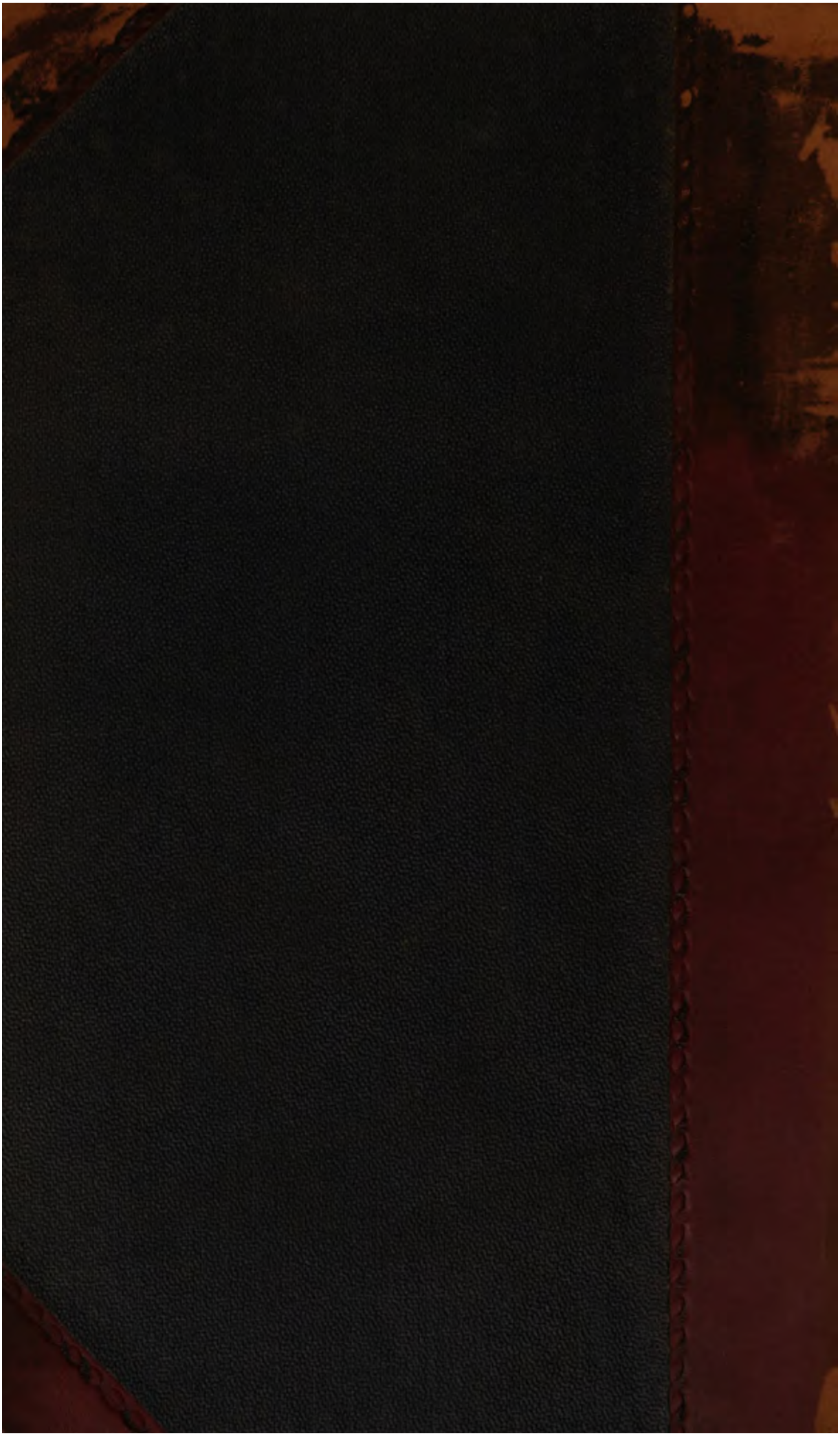
I have now, Gentlemen, concluded my defence. I have noticed every accusation which the Judge Advocate, in the opening of the cause, mentioned as those which he should rely upon, and which he expected to maintain.

I have not left, as I believe, any part of the specifications to which any testimony whatever was offered, unanswered.

Allow me, Mr. President, and Gentlemen of the Court, with the most heartfelt sensibility to return you my sincere thanks, for the manner in which this trial has been conducted. For though, as I humbly conceive, there has been some departure from accustomed forms, in respect to the examination of witnesses, I know that the Court has been governed by nothing but its own sense of propriety.

The conduct of the members of this Court, and of the Judge Advocates, has been such as I had anticipated; and every thing that I could expect from honourable, impartial, and humane men.

Whatever may be the sentence, I shall always with gratitude acknowledge that I have had a fair, candid, and patient hearing. I do feel myself bound to make particular acknowledgments to the special Judge Advocate, for the delicacy and propriety of his deportment towards me, and though I may feel the force of the talents with which he has conducted this prosecution, it shall not make me forget what I owe to his humanity and liberality.

Gentlemen, my life is in your hands. But you are guardians of what is more dear to me; you are the guardians of my honour! with you in sacred deposite

is that sword, which has been my companion in times that might have appalled the weak hearted. It has been taken from me, till you shall pronounce that I am *not* unworthy to wear it. I feel, that in justice, I may demand it of you. And when I shall receive it at your hands, believe me, that here is yet enough of heart and life, and in this arm is yet nerve enough, to draw it in vindication of my country's rights. If I should receive it, *untarnished* by your judgment, I may yet live, to prove by my future, as well as by my past conduct, how I have been *calumniated*, and the *justice* of your *sentence*.