

3d. Because after the full and explicit acquittal implied by the sentence, it proceeds to punish your memorialist for acts the law does not recognize, but on which the court assume a self-constituted power to decide and punish.

Your memorialist might with confidence affirm, whatever of shadow shall appear, the substance is wanting to render the crime defined by the 31st Article of the Articles of War, which says, "that a false muster must knowingly and with design be made, counselled or procured to be made, &c. &c."

That your memorialist did not knowingly, or with design, commit the wrong against the public service which this law proscribes is in full evidence on the proceedings of the Court.—

Your memorialist conceived from the particular situations of the individuals, whose names he proposed to include in his returns, that he might do so; but when he found the act questionable, which it is clear he did not apprehend to be so, until it was objected to (for he offered it without any preparation, or using any species of influence to give it effect) he immediately ordered his books to be corrected and to conform to the Master's ideas.

A false muster of any species or description was not in your memorialist's intention. His object was to oblige a nobleman by any act of gratitude in his power, for favours he had received, and the circumstance of his cook lent to the commissioners not being on board is explained by the commissioner's letter, as well as the circumstances under which he proposed to bear the Carletons on his  
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