

‘ War were on board several Ships at many Miles distant from each other, and Colonel *Howard* at the Isle of *Aix*; but indeed Admiral *Knowles* has communicated to the Court the Difficulties, or rather the Impossibility, of assembling a Council that Night, if it had been wanted.

‘ I recollect, that Mr. *Pitt* mentioned a Circumstance, of which it may be expected I should take some Notice; which was, that the Paper produced by him, containing the Number and Employment of the *French* Forces, had been confirmed by subsequent Intelligence.

‘ Colonel *Clerk* too, it may be proper to observe, said, if I recollect it right, that several People, whom he had seen since his Return, had confirmed him in the Opinion he had first formed of the State of *Rocheport*.

‘ If Observations of this Kind had been proposed by the Judge Advocate to have been given in Evidence, I should have objected to it, as improper Evidence. What Mr. *Pitt* alluded to, has not been explained, nor laid before the Court, and like Mr. *Clerk*’s Discourse confirming his Opinion, is all subsequent to the Transaction now under Examination: It is awowedly subsequent to our Return, and therefore could never operate upon my Conduct, nor influence the Judgment I was by his Majesty’s Instructions to form upon the Spot. It seems therefore preposterous, to make that Evidence of Disobedience of Orders, which must relate to such Opinion, as I was able to form before these Facts were known. My Judgment can only be tried by the Proofs, on which it was formed. If the Judgment was upright upon those, it can never be made otherwise by other Proofs, not then in my Power; besides, the Court will also consider the Absurdity of admitting such Evidence; for, if the present differs from that obtained upon the Spot, Intelligence still subsequent may hereafter be obtained to contradict the present.