

tracing which this deponent might arrive at the place of their arrest ; this deponent therefore employed said Chittenden, and also one E. S. Lathrop to assist him, and having provided himself with instruments for the purpose of determining accurately the situation of the place of arrest, providing its proximity to the national boundary line should render its jurisdiction uncertain or doubtful ; he, this deponent, with said Chittenden and Lathrop proceeded forthwith to Gibraltar, thence by the direction of Chittenden to a place on the ice below Gibraltar where said Chittenden pointed out to this deponent the tracks of two persons leading towards the Canada shore, which were then supposed to be the tracks of Sutherland and Spencer ; they were parallel and about three or four feet apart—those made by the person who had walked on the upper side were much larger of the two, confirming what Chittenden had previously stated, to wit—that Gen. Sutherland was much the larger man of the two and walked on the upper side. These tracks this deponent traced to their termination, as he then supposed, a short distance from which, was a sleigh track apparently from Malden ; but which this deponent could not arrive at nor examine, on account of the holes in, and the decomposition of the ice at this place, which was exceedingly rotten and covered from six to ten inches with water. This place this deponent and also Chittenden and Lathrop then concluded was the place of Gen. Sutherland's and Spencer's arrest. It was, in the opinion of this deponent, within one and a half miles of the Canada shore, and in full view of Malden ; the Queen's store house at which place could be distinctly seen between the main shore of Canada and Bois Blanc Island, and the light house on said Island bore north five degrees east. This place then, supposed to be the place of his arrest, was so evidently, within the jurisdiction of Canada, that this deponent, and also said Chittenden and Lathrop, deemed an actual survey and measurement entirely unnecessary. This deponent therefore drew up a report at the time, setting forth the result of said examination as aforesaid, which was signed by this deponent, and also by said Chittenden and Lathrop and which he, this deponent, delivered to the Governor, a copy of which this deponent has not preserved, because he then believed that that was the place of Gen. Sutherland's arrest—and that it was so evidently within the boundaries of Canada, that its jurisdiction would not and could not be questioned. But as said Chittenden has, since the making of said examination, and the said drawing up and signing of said report, stated to this deponent that he, Chittenden, upon more mature reflection, entertains strong doubts about those being the tracks of General Sutherland and Spencer which he pointed out to this deponent at said examination ; and that if they were, that he, the said Chittenden, is of the opinion that the