

of the waters of Lake Erie, or words to that effect. He then desired that witness would take him before his commanding officer and he expressed a hope that he should not be used ill by us. Witness told him that he should be taken before the commanding officer, and should not be ill treated. *Witness wished the Court distinctly to understand that the place where he captured the prisoner, was not above a mile and a half from the Canada shore, and it was on that part of Lake Erie which belongs to the British government. He also wishes the Court distinctly to understand that it was at least five miles from the American shore.* Witness also wishes the Court to understand that the swords were both very efficient swords, and they wore them as military men usually do. Witness had seen Mr. Sutherland at Detroit some time previous to that day, about six weeks previous, and a few days after the capture of the schooner Ann of Detroit. He had then a sword by his side, which witness believes to be the same which he took from him. He also wore a military dress with a tri-colored cockade in his hat. After Mr. Sutherland became the witnesses' prisoner, they proceeded in sleighs to Malden, where witness placed him in charge of the Honorable Colonel Maitland, then commanding there.

On the following day, being Monday, and Col. Maitland having expressed his determination to send both the prisoners down to Toronto, and the prisoner Sutherland having the preceding day expressed a wish to make a communication to them, witness arranged with Colonel Maitland that the prisoners should be brought before him, this witness, *Major Lachlan, and Captain Prideaux Girty, Esqs.* all of whom were magistrates in the Western District. The prisoner Sutherland was in consequence brought before them about mid-day, in a room in the garrison where any body who pleased was allowed to enter, and the room was filled with military men and civilians. The prisoner Sutherland was brought in first, and alone, apart from his companion; witness then reminded him of his having expressed a wish to make a communication to them; witness stated that he and his brother magistrates were ready to receive any information he may choose to give, at the same time reminding him that he need not say any thing which would criminate himself. He said he was aware of that, and that he would frankly tell us all he knew. He then made a voluntary statement which witness heard throughout. After he, the prisoner, had made this statement, witness reduced the substance of it into writing in his presence. Witness also produced a newspaper, (which newspaper he here handed into the Court, being the "Detroit Morning Post," dated the 12th of January, 1838,) the paper containing the prisoner Sutherland's despatches and proclamations, but that some of them were written for effect. When