

gard to Lieutenant Colonel *Clerk's* Evidence, he does not recollect any Mention of Information obtained by him, since his Return to *England*, either in Confirmation, or Contradiction of his former Account of *Rocheport*.

But the Argument urged by Sir *John Mordaunt* in the Beginning of his Defence, against the admitting in Evidence that Intelligence, which was communicated to the Commanders of the Expedition at the Cabinet Council in *England*, he conceives to be without Foundation, as it is not produced as Evidence to prove any particular Act of Disobedience (the Evidence of the supposed Disobedience in this Case being the Notoriety of the Return to *England*, without having attempted a Descent) but is only introduced to shew the Practicability of the Enterprize; and it would be as unreasonable to set aside this Intelligence, when the Question turns upon the Practicability, as to deprive Sir *John Mordaunt* of the Use of any Intelligence received previous to their sailing from *Spithead*, or of the Argument raised from the unavoidable Detention of the Troops in the Isle of *Wight*; which Circumstances were equally known to the Government, and both previous to the Orders signified by Mr. Secretary *Pitt* in his Letters of the 5th and 15th of *September*.

As to the Use endeavoured to be made of Port *L'Orient* being permitted to remain in the Instructions, (though the Ministry seemed to have given up the Thoughts of an Attack upon that Place) in order to govern the Construction of the other Article of the Instructions, which relates to *Rocheport*, the Latitude or Power of judging being expressed by the Word *practicable* in both Articles,—The Judge Advocate observed, that there is a manifest distinction,—The Article relating to *Rocheport*, directing an Attempt with a View to that particular Object, *if found practicable*; in the other Case, Port *L'Orient* and *Bourdeaux* are recommended, as the most important Ob-

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