

‘ I did every Thing in my Power to execute faithfully the Instructions given me ; the Trust reposed in me.

‘ The Court perceives by the Instructions, that upon the Spot, with the Assistance appointed by the King for me, I was to judge of the Fitness of acting,—of the Practicability of making the Attempt, before I put the Flower of the *British* Troops to Hazard, or risked the Honour of the *British* Arms.

‘ The Subject was important ; I had therefore Recourse to those appointed by the King to assist me.

‘ We could not be ignorant, that our Judgment would be unpopular ; but it was our Duty to take Care that it should be honest and becoming Officers.

‘ Upon that Judgment I still rely ; it was formed in Pursuance of the Power given by the Instructions, and can never, I apprehend, be deemed a Disobedience of them.

‘ There have been many Instances of Officers tried (perhaps too for supposed Disobedience) when the genuine Complaint was, that they could not be successful. But I have this Satisfaction, that as my Defence rests upon the concurrent unanimous Opinion of all the principal Officers employed with me, so the Cause of Commanders in Chief tried in my Name, is to be determined by Officers, who have Ability to discern the Justice of my Case, and Sensibility to feel the Delicacy of it.

‘ With these Sentiments I submit myself to the Judgment of the Court.”

THE JUDGE ADVOCATE briefly submitted to the Court his Opinion, that subsequent Confirmations of Intelligence, as they could not have any Influence on the Resolutions, when taken, are not proper Evidence ; and, if any such have appeared, in the Course of the Proceedings, on either Side, they ought unquestionably to be laid out of the Case. With regard