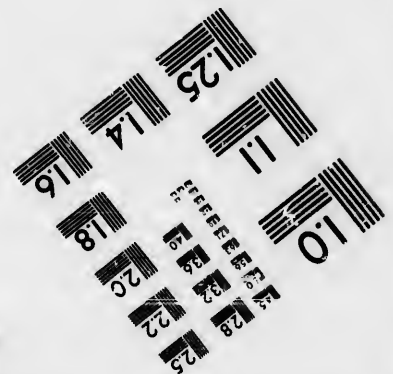
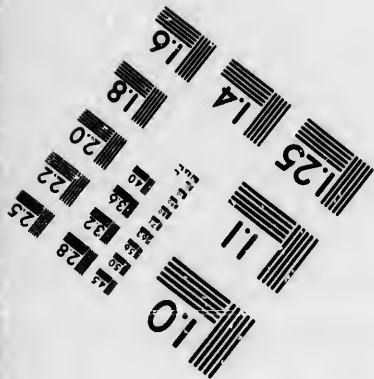
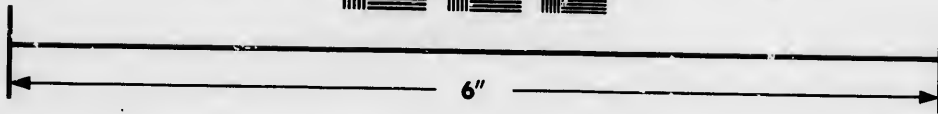
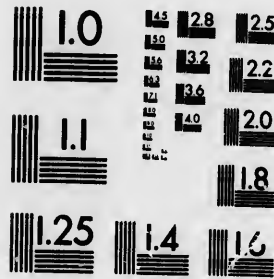


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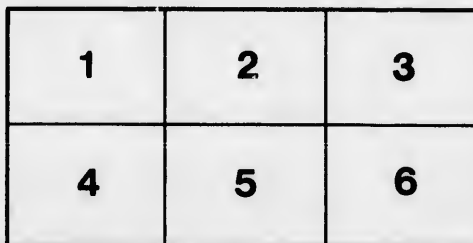
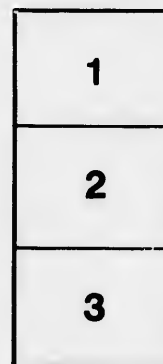
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THE STATE

OF NEW YORK

IN SENATE

JANUARY

1880

REPORT

OF

THE COMMISSIONERS

OF THE LAND OFFICE

IN RESPONSE TO A RESOLUTION

PASSED BY THE SENATE

APRIL 1879

ALBANY: PUBLISHED BY THE STATE

PRINTERS, 1880.

THE STATE OF NEW YORK

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REPORT
OF
THE TRIAL
OF
BRIG. GENERAL WILLIAM HULL;
COMMANDING
THE
NORTH-WESTERN ARMY
OF THE
UNITED STATES.
BY A
COURT MARTIAL
HELD AT ALBANY
ON MONDAY, 3d JANUARY, 1814,
AND
SUCCEEDING DAYS.
TAKEN BY LIEUT. COL. FORBES,
OF THE FORTY-SECOND REGT. U. S. INFANTRY, AND A
SUPERNUMERARY MEMBER OF THE COURT.

NEW-YORK:

PUBLISHED BY RASTBURN, KIRK, AND CO,
AT THE LITERARY ROOMS, CORNER OF WALL AND NASSAU-STREETS.

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1814.

PROBATION

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District of New-York, ss.

BE IT REMEMBERED, that on the twenty-fifth day of July, in the thirty-ninth year of the independence of the United States of America, Eastburn, Kirk & Co. of the said District, have deposited (L. s) in this office the title of a book, the right whereof they claim as proprietors, in the words and figures following, to wit:

“Report of the Trial of Brigadier General William Hull; commanding the North-Western army of the United States. By a Court Martial held at Albany on Monday, 3d January, 1814, and succeeding days. Taken by Lieut. Col. Forbes, of the 42d regiment United States Infantry, and a Supernumerary Member of the Court.”

In conformity to the Act of the Congress of the United States, entitled “An Act for the Encouragement of Learning, by securing the copies of Maps, Charts, and Books to the authors and proprietors of such copies, during the time therein mentioned.” And also to An Act, entitled “An Act, supplementary to An Act, entitled An Act for the encouragement of learning, by securing the copies of maps, charts and books to the authors and proprietors of such copies, during the times therein mentioned, and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.”

THELON RUDD,
Clerk of the District of New-York.

INTRODUCTION

The following is the text of the introduction, which is extremely faint and difficult to read. It appears to be a preface or an introductory chapter of a book. The text is arranged in several paragraphs, with some lines appearing to be in italics or a different font style. Due to the low contrast and blurriness of the image, the specific words and sentences are largely illegible. The structure suggests a formal introduction, possibly discussing the scope and purpose of the work.

INTRODUCTION.

IN presenting to the public a report of the Trial of William Hull, Esq. late a Brigadier General in the service of the United States, it will not, I hope, be expected, that I should offer any thing of my own, in illustration of the proceedings in justification of the government, or in criminating or exculpating Mr. Hull. These duties have been committed to abler hands; my efforts have been studiously applied to collect a correct and impartial transcript of the whole proceedings taken at first, with a view of elucidating the evidence for my own governanc^t, should I have been called upon to pronounce sentence. That unpleasant task did not, however, devolve upon me; I therefore beg leave to submit the following sheets as "A Report of the Proceedings of a Court Martial held at Albany, for the Trial of Brigadier General William Hull of the Army of the United States."

A trial which has excited such a lively interest with the public, was certainly entitled to my greatest attention; although this has been as far applied to it as was consistent with other duties, yet I am aware that imperfections may be discovered in the collection and arrangement, and crave the indulgence of the public accordingly, in submitting among others, the following reasons, viz:

General Hull would not listen to any proposals for the copy of the defence, which made an application to the war department for it necessary, whence it was most readily granted.

The obliging promise of the Special Judge Advocate to furnish his opening and summing up, has from some inadvertence, not yet been complied with, and is no doubt delayed from the multiplicity of his avocations. As the

publication of the proceedings can no longer be withheld, in justice to the public expectation, those productions, so worthy of him, may, on their arrival, form an additional appendix.

In thus apologizing for the irregular order in which the work appears, I have to regret moreover, that I did not take down verbatim the summing up by the Honourable Martin Van Beuren, the Special Judge Advocate; the ability and perspicuity displayed by him extemporaneously, on an occasion so novel to him, excited, I can venture to say, the admiration of one of the most numerous and respectable audiences that ever attended a court martial in the United States.

JAMES G. FORBES,
Lieut. Col. 42d U. S. Inf.

Staten-Island, 10th June, 1814.

—••—
REFERENCES.

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Documents on the part of the United States, Appendix No. 2,	Page 23

TRIAL

OF

BRIGADIER GENERAL HULL.

ON Monday the 3d of January 1814, the Members detailed by the General orders of the 17th Nov. 1813, and by subsequent ones to constitute the Court for the trial of Brig. Gen. Hull (vid. Appendix) assemble at 10 o'clock A. M. at the Columbian Hotel, in Albany, where Brig. Gen. Hull attended, accompanied by an aid de camp. The names of the Members having been called over, the accused was asked if he objected to any of them—he replied in the negative, made a short but impressive speech on the occasion, declaring his confidence in the honour of the Court, surrendered his sword and retired. The members were then sworn, in the order of their rank, and were as follows :

Major General HENRY DEARBORN, President.

Brig. Gen. Joseph Bloomfield.

Col. Peter Little, 38th Regt.

Wm. N. Irvine 42d do.

Lieut. Col. James House, Artl.

Wm. Scott, 36th Regt.

Wm. Stewart, 38th do.

Members

Col. J. R. Fenwick, Artl.

Robert Bogardus, 41st.

Lieut. Col. Richard Dennis, 16th

Samuel S. Conner, 13th

S. B. Davis, 32d

John W. Livingston, 41st.

* Lt. Col. J. G. FORBES, 42d Reg. *Supernumerary.*

Judge Advocate, (special) MARTIN VANBEUREN, Esq.

Army Judge Advocate, PHILIP S. PARKER, Esq.

The Court then determined to adjourn to Wednesday the 5th Inst. to meet at the Senate-Room, in the Court-House, in the Capitol.

2nd day, Wednesday 5th, January, 1814.

The court met, pursuant to adjournment, at the Senate Chamber.—Col. Carberry, of the 38th Reg. one of the members summoned to attend, appeared; but, as the Court had been organized previous to his arrival, was permitted to withdraw. Brig. Gen. Hull appeared; and, as the court

* This gentleman did not take his seat until the 6th day.

could not proceed for want of witnesses, (only four having made their appearance) again retired. After several propositions for adjournment, the court at length adjourned to meet at 10 o'clock A. M. on Wednesday, the 12th January at the same place.

3rd day, Wednesday, 12th, January 1814.

The Court met, pursuant to adjournment—General Hull appeared, and proposed that Robert Tillotson, Esq. should be admitted as his counsel; which was agreed to. The Judge Advocate acknowledged the receipt of further documents from the war department; but could not proceed in the trial, as not more than four witnesses had made their appearances. The Court adjourned to meet, at the same place, on Thursday, the 13th January.

4th day, Thursday, 13th, January 1814.

The Court met at the Senate Chamber, pursuant to adjournment. Only Seven witnesses having answered to their names, the court, after deliberation, resolved to write to the Secretary at war for permission to adjourn to such other place as the court might think proper, or the President might prescribe, as the proceedings were suspended for want of witnesses—Adjourned to Monday 17th January.

5th day, Monday, 17th January 1814.

The court met pursuant to adjournment—the charges against the prisoner were read; (vide Appendix) to which Gen. Hull pleaded—Not Guilty—in the usual form. It was then proposed that C. D. Colden, Esq. should be the additional advocate in behalf of the prisoner, which was granted by the court. The witnesses not having yet appeared in sufficient number to enable the Judge Advocate to proceed in the trial, the court adjourned, to meet in the Hall of the Supreme court, in the Capitol, at 10 o'clock, A. M. on Wednesday the 19th January.

6th day, Wednesday 19th January, 1814.

The Court met pursuant to adjournment—All the members present.—General Hull delivered the following

ADDRESS.

MR. PRESIDENT AND GENTLEMEN OF THE COURT.

THE court has been pleased to admit that I have a right to the assistance of counsel in my trial—But it seems to be questioned to what extent I may avail myself of that assistance—When the members of the court call to mind the nature of the charges which are made against me, they must perceive how deeply the determination of this question may affect me. Among other things, I am charged with treason. The constitution defines this crime to consist in levying war against the United States, adhering to their enemies, giving them aid and comfort. As often as there have been trials for treason under the constitution, the most eminent Lawyers, as well on the bench as at the bar, have differed in some opinions as to what should be considered as evidence of the facts which constitute this high crime.

The greatest talents of our country have been exerted and exhausted in debate on these subjects, and can it be supposed that I, who am ignorant of law as a science, who have no talents for argument, should be able to discuss before you the testimony which may be offered under this charge, in a manner that can do justice to myself, or be satisfactory to you.

But, Mr. President, the decision of this honourable court on my present application is not only highly interesting to me; but, as it involves an important constitutional question, I can not but think it deeply concerns every member of the community.—The proceedings of this tribunal will be remembered as long as there is in existence any history of our country. The rank and character of the honourable members of this court will give a weight and sanction to whatever they may determine; which will be a precedent that will hereafter have the force of authority. On this ground, as well as in regard to my own case, I am anxious that the important point now before you should be deliberately and rightly determined.

At the last sitting of the court, my counsel were called upon to state how far they supposed their request to assist me extended. In answering this question, which it was not expected would at that time occur, and speaking from the impression of the moment as to what were the rules on this subject to be found in the English writers on martial law, and from what they believed to have been the practice in similar cases, my counsel answered that they claimed the right to cross-examine the witnesses for the prosecution, to examine my witnesses, and to speak upon any questions of law which may arise in the course of the trial.

But, sir, my counsel upon consideration are convinced, and they have satisfied me, that their claim was too limited; and I now with all possible respect, but with the utmost confidence in the legality and justice of my claim, demand that my counsel may be permitted to speak for me on all occasions, either in the progress of the cause or in its conclusion.

I am not about to deny the respect which is due to the English writers which may be appealed to upon this occasion. I admit that we may learn from an enemy. But I rest the claim I now make upon much higher authority than these writers. I appeal to the constitution of our country; and I invoke the spirit of reason, justice, and liberty, which has cast off from us those chains which were rivetted upon the inhabitants of the old world in times of the utmost barbarism, and by which the writers on the English criminal law, whether civil or military, yet feel themselves bound. Before I explain the grounds upon which I now make a claim, which I have acknowledged is beyond what the rules established by those writers could admit, I beg leave to ask the attention of the court, while I examine as well the foundation on which these rules rest, as their extent. For upon this latter point it appeared to me, from what passed at the last session of the court, that there was some difference of opinion among the members. Some gentlemen seemed to suppose that my counsel would only have a right to examine the witnesses, others that they would have a right also to debate any collateral questions which might arise. My object at present is to show that even by the practice of English

courts martial, and the rules adopted by English writers, counsel have a right to speak on every question but the final one, whether the accused be guilty or not.

I have said we have none but English authorities on this subject, and this is certainly true; although a treatise on martial law has been published in this country under a highly respectable name, yet it will be found that the work is a mere compilation from foreign writers, and that the author has adopted not only their ideas, but, in most instances, their very words, without having for a moment reflected how far the rules they established were consistent with the rights of personal security, guaranteed to us by the constitution and laws of our country; and which, in our estimation, render our condition so far superior to that of others of our race.

I shall therefore confine myself to the examination of the English authorities, because, when I have examined these, I shall have examined all that has been said by our own writers on the subject.

I must regret, Mr. President, that the researches of my counsel upon this subject have necessarily been so confined. In the situation in which we are placed, we could only have recourse to a few books.

Mr. Arthur in his treatise on courts martial vol. 2, page 42, says, "It is likewise the practice at courts martial to indulge the prisoner with counsel, or at least amici curiæ (or friends of the court) to sit near him, and instruct him what question to ask the witness with respect to matters of fact before the court; and they may commit to paper the necessary interrogations which the prisoner may give in separate slips to the Judge advocate, who reads them to the court, and if approved, (that is, proper to be put,) he inserts them literally in the minutes."

Tyler, states that it has been the established usage that the accused are not to be allowed to interfere in the proceedings of a court martial by pleading or argument of any kind.

No question, these authorities would confine the office of counsel to very narrow limits; and indeed if these are the

proper limits of the accused; it would not be absurd to deny the accused the assistance of counsel altogether; for, most certainly, an interference to this extent would only embarrass and do no possible good.

But the first of these authors appeals to their own civil courts to warrant this practice. And they may well consent to do so, because by the laws of England a person accused of any capital crime is not entitled to be heard by counsel; yet in these cases, says Blackstone, (4 commentaries 355) "The Judges never scruple to allow a prisoner counsel to instruct him what questions to ask, or even to ask questions for him, with respect to matters of fact. For as to matters of law, says the learned and humane author, arising, in the trial, the prisoner is *entitled* to the assistance of counsel." "Not only upon the trials of issues which do not depend on the question of guilty or not guilty, (says Judge Foster, one of the most learned Judges that ever graced the English bench,) but upon collateral facts, prisoners under a capital charge whether for treason or felony, always were entitled to the full assistance of counsel." But if the practice of the English civil laws are to be a rule in this subject, why should only a part, and the most rigorous part of their rules be adopted? why not permit, counsel not only to examine witnesses, but speak upon law points as they may do in the English criminal courts. I can not, however, Mr. President, admit that the practice of either the civil or military courts of a Government, so different from ours in every thing which is a security for the rights of persons and of civil liberty, are to be a rule for your government.

Every commentator who has written on this subject has blushed for the absurdity and barbarity of the reasons on which this exclusion is founded. Speaking of this rule, Blackstone says "It is a rule, which, however it may be palliated, seems not of a piece with the rest of the humane treatment of prisoners by the English law. For, upon what face of reason can that assistance be denied to save the life of a man, which is allowed him in every petty trespass?"—Christian in his notes in Blackstone says, "It is very extraordinary the assistance of counsel should be denied when it is wanted

most—that is when it is wanted to defend the life, the honour and all the property of an individual.”—The censures of Judge Blackstone on this inhuman rule of the English law, have been quoted by M^r Arthur himself, and are given as an introduction to the rule which he adopts. But, indeed, as if ashamed of the rule, and as if even the practice of the English courts would not be sufficient to sanction it, he refers us to the practice of the Egyptians, and cites them as an authority for the rule; and I think sir, he may well have done so; for probably there was less despotism and barbarism in Egypt than there was in England, in those times when this rule was adopted, and when a prosecution by the crown was in effect a sentence of death, and when the object was to guard against every interposition between the accused and the sword of the King.

Are we then, Mr. President, in this country to be governed by rules which are derived from such a source, and have originated in such motives? Shall we adopt rules at which the sense, reason and humanity, of all mankind, since the civilization of the world, have revolted? I ask these questions with a confidence that the members of this honourable court when they have considered them—(and I pray that they will take time to consider them)—will answer them in the negative.

But, Mr. President, I make a higher appeal upon this occasion than to English writers or English practice: I appeal to the constitution of our country; and if you do not find my claim sanctioned by the letter of that instrument, I am sure you will by its spirit, which I know must govern the deliberations and decisions of this honourable court.—By the amendments to the Constitution it is provided that in all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for his defence. I know well, Sir, that if this provision be taken in connection with the context, and the instrument be construed according to the technical rules of law, it will be considered as applying only to civil prosecutions.—But, upon this occasion, and in this honourable court, I look for a disposition that shall trample upon professional quibblings. For, by minds that are able to

separate and feel the influence of the rays of truth and justice, however they may be obscured by words and forms, when it was provided that the accused should have the benefit of counsel, how can it be supposed that it was intended to confine this provision to accusations before a civil court. Is there any reason that can apply to the admission of counsel before a civil tribunal, that does not apply to a military court? It is not to be supposed that the judges of a civil court are less learned, less honourable, or less humane, than those of any other tribunal. It is as much their duty to be counsel for the prisoner, as it is the duty of the Judge advocate or of the members of this court to discharge that charitable office. Can it then have been the intention of the constitution that counsel should be admitted in the one case and not in the other? In the passage before quoted, Judge Blackstone says, "upon what face of reason can that assistance be denied to save the life of man, which yet is allowed him for every petty trespass?" May I not ask upon what face of reason can that assistance be denied to save the life of man before a military court, which yet is allowed him before every other tribunal?

Let me once more beg to turn the attention of the court to the English writers, from whom the rule now under consideration is derived. I think an inconsistency of their reasoning will be most manifest. Mr. Tytler in his treatise, page 221, in advocating the propriety of allowing counsel to suggest interrogatories to the witnesses, says, "This benefit the court will never refuse to the prisoner; because in those unhappy circumstances, the party may either want ability to do justice to his own cause, or may be deserted by that presence of mind which may be necessary to command or bring into use such abilities as he may actually possess." I feel, Mr. President, in its full force the justice of this reasoning. I feel that I may want ability to do justice to my own cause, and with the sensations which the accusations now before you excite, it may be that I shall be deserted by that presence of mind which might command or bring into use what abilities I have. But, why does not this just, sound, and humane reasoning apply to every stage of the prosecution as well as to the examination

of witnesses? Does it require less abilities or less presence of mind to argue the questions which may be presented to you: to discuss for instance, what may or may not be treason under the constitution and laws of the United States; and finally to arrange and sum up the mass of testimony, which, from the number of the witnesses who have been called, it may be presumed will be offered to you, than it does to put questions to the witnesses.

Another reason assigned, why the accused before a court martial should not have the full benefit of professional aid, is that the Judge advocate is supposed to be of counsel for the prisoner. The judges of the American law courts are equally bound to counsel those who are accused before them. And yet the aid of counsel before the civil courts has been thought a right worthy to be secured by the great charter of our liberties. But, sir, our military code has defined how far the judge advocate is to consider himself as the counsel for the accused. By the 59th article of war it is provided that the judge advocate "shall so far consider himself as counsel for the prisoner, after the prisoner shall have made his plea, as to object to any leading question, to any of the witnesses, or to any question to the prisoner, the answer to which might tend to criminate himself." If this be the extent of the duty of the judge advocate in respect to the prisoner, let me entreat you, Mr. President, and the honourable members of this court to consider, how far the assistance which I have a right to claim from the judge advocate must fall short of that aid which I may require on this occasion.

I shall trouble the court with the consideration of only one other reason, which has been urged for not permitting before courts martial the full aid of counsel. It is said by Mr. Tytler, page 91, that this "aid is not requisite before these courts, because they are in general composed of men of ability, and discretion." Certainly, sir, this reason applies with its fullest force upon this occasion. Is it not also to be supposed, that generally the judges of the civil courts are likewise men of ability and discretion? and if this reason will apply to exclude counsel in the one case, why does it not in the other. In fact, Mr. President, the military courts of England

have taken this rule, as they have most of their other rules for conducting prosecutions, from the practice of their civil courts. But the constitution having in this respect changed the practice of our civil courts, is it not reasonable and just that our military tribunals should conform their practice to the practice of our civil courts? But, sir, whatever reasons may be urged to exclude professional aid on the part of the prisoner, let me ask with great respect, why they will not equally apply on the part of the prosecution—and yet it is most evident that the officers of the Government, who have instituted this prosecution, have not felt the force of those reasons: If they had, they would have left the prosecution to be conducted by the military prosecutor—and yet, sir, you see, to the charges which have been drawn up against me, the name of one of the most eminent counsel in the United States: and I find enlisted against me, in aid of the military Judge advocate, a professional Gentleman of this State not less distinguished for his talents. If technical learning is to be excluded upon these occasions, how does it happen, Mr. President, that the charges now before you are obscured by such an abundant verbiage, and distorted to so many different forms, that it is almost impossible for any but a professional man to understand them?—I hope sir, that there are no courts in our Country whether civil or military, however otherwise it may be in England, where there is one rule of justice for the prosecution, and a different one for the accused—as to the practice in this Country I can say but little. I will only add, that one of my counsel informs me that he has been engaged as counsel for the prisoner before two naval courts martial; and that, in both instances, he was allowed to interrogate the witnesses and to argue all questions which arose, as fully as he might have done in a civil court. He did not ask to be permitted to sum up the evidence, because he acquiesced in the authority of the English writers; but which he now believes, for the reasons I have assigned, ought not to govern in this country.

Mr. President, my life, my character, every thing that is dear to me in this world is at stake. I have not ability to manage my own cause. Reason, justice, humanity, the con-

situation and the laws of my country, give me a right to professional aid in its fullest extent; and I pray to be permitted by the court to avail myself of it.

I beg leave, Mr. President, to add a few words before I leave this interesting question to the consideration of the court. Though sir, a sense of my own inability for an occasion of this kind, makes me earnestly desirous to be permitted to avail myself of the full aid of counsel; yet I cannot conceive that the nature of the testimony will be such as to make me desire the interposition of my counsel; and I have every reason to expect from all I have observed, the utmost liberality and candour from the judge advocate: The court may be assured that it is neither my intention, nor the intention of my counsel to occupy the time of the court by the discussion of legal subtleties, or to make technical objections, I promise the court that I shall not, if it should be in my power make any objections to matters of form of any kind, nor shall I suffer my counsel to make them. I stand upon my innocence, and all I wish is a fair opportunity to prove it. I have already suffered too much in my feelings, and in my character by the delays which have taken place, to wish to postpone for a moment the final decision of my case.

Permit me, Mr. President, to avail myself of this opportunity to make a suggestion which is not connected with the subject of the foregoing address, but which is hardly less interesting to me. I am ready for my trial—I am anxious that it should proceed. But, sir, if the trial were to commence, and if the court after having examined in public some of the witnesses for the prosecution, should then adjourn for any length of time, the court will perceive that it would be the utmost hardship upon me. The testimony here openly given against me would be abroad, and would make its impression on the public mind; while the examination of exculpatory testimony would be deferred to a distant day. I have already too severely felt the effects of public prejudices, and ex parte relations, not to wish that no further opportunity may be given for them.—I hope, therefore, that it will be understood by the court, when the Judge advocate commences the trial, that

he is ready to proceed with it, and that the progress of the cause is not to depend on the arrival of witnesses who may be absent.

The court agreed to deliberate upon the subject of this address, and evinced a disposition to indulge the prisoner, as far as their duty to the public would admit. The court was accordingly cleared, when the address of Gen. Hull was read and considered. Upon its being again opened, the opinion of the court was—"that the communications by the prisoner's counsel should be made in writing through the accused."

Lt. Col. Forbes took the necessary oaths, and was admitted to a seat; after which the court adjourned to Wednesday, 26th Jan.

Seventh day, Wednesday 26th, Jan. 1814.

The court met pursuant to adjournment, all the members being present. The special Judge advocate (the Hon. Martin Vanburen) addressed the court on opening the case, and read the following

DOCUMENTS.

The order of arrest, by Adjutant General Cushing against Brig. Gen. Hull.

The discharge from parole of Brig. Gen. Hull by Col. Barclay, British agent for prisoners.

Letters from the Inspector General A. Y. Nicoll, Nos. 1, 2, 3, from the war department, detailing the officers to compose the court martial for the trial of the accused.

A letter from Brig. Gen. Hull to the Secretary of war, dated 3rd April, 1809.

A letter from the same to the same, dated 25th March, 1812.

Two letters from the Secretary of war to Gen. Hull, both of April 9th, 1812.

Two letters from the same to the same, dated 23rd and 29th May, 1812.

A letter from the same to the same, dated 16th June, 1812.

- Two letters from the same to the same. Dated 18th June, 1812.
- A letter from the same to the same. Dated 24th June, 1812.
- Two letters from the same to the same. Dated 2nd and 26th July, 1812.
- Three letters from the same to the same. Dated 19th and 19th July and 11th August, the receipt of which was not acknowledged by Gen. Hull.
- Contract for provisions. Dated 8th August, 1812.
- A letter from Brig. General Hull to the secretary of war. Dated 17th April, 1812.
- Two letters from the same to the same. Dated Pittsburg, 26th and 28th April, 1812.
- A letter from the same to the same. Dated Marietta, 3rd May.
- Three letters from the same to the same. Dated Cincinnati, 8th, 13th and 17th May, 1812.
- A letter from the same to the same. Dated Dayton, 23rd May, 1812.
- A letter from the same to the same. Dated Camp Meigs, 26th May, 1812.
- The speech of Gov. Meigs to the army of Ohio. Dated 25th May, 1812.
- A letter from Brig. Gen. Hull to the Secretary of war. Dated Dayton, 23rd May, 1812.
- A letter from the same to the same, dated, Staunton, 3rd June, 1812.
- Four letters from the same to the same. Dated, Urbana, 9th, 11th, 12th, and 13th June, 1812.
- A letter from Lieut. Col. Miller to the Secretary of war. Dated, Urbana, 12th June, 1812.
- A letter from Brig. Gen. Hull to the Secretary of war, Dated, Urbana, 17th June, 1812.
- A letter from the same to the same. Dated Camp Necessity, 24th June, 1812.
- A letter from the same to the same. Dated Fort Finlay, 26th June, 1812.
- Return of the force of the army on 26th June, 1812.

- A letter from B. Gen. Hull to the Secretary of war. Dated, 24th June, 1812.
- Two letters from the same to the same. Dated, Detroit, 7th and 9th July, 1812, (the latter not read.)
- A letter from the same to the same. Dated, Sandwich, Upper Canada, 13th July, 1812.
- A proclamation by Brig. General Hull, dated 12th July, 1812. Published 20th July.
- Four letters from Brig. Gen. Hull, to the Secretary of war. Dated Sandwich, 9th, 10th, 14th, and 19th July, 1812.
- A letter from Col. Cass to B. Gen. Hull. Dated 17th July 1812.
- Eight letters from B. Gen. Hull to the Secretary of war. Dated Sandwich, 20th, 21st, 22nd, 23rd and 29th July, and 4th, 7th August, 1812.
- A letter from the same to the same. Dated, Detroit, 8th August, 1812.
- Articles of capitulation. Dated, Detroit, 16th August, 1812. and supplementary articles of the same date.
- A letter from B. Gen. Hull, to the officer commanding at the Rapids. Dated 17th August, 1812.
- A letter from Major Gen. Brock to Brig. Gen. Hull. Dated 15th August, 1812.
- A letter from Brig. Gen. Hull to Major Gen. Brock. Same date, in reply.
- A letter from Brig. Gen. Hull to the Secretary of war. Dated, Detroit, 13th August, 1812.
- Two letters from Brig. Gen. Hull to the same. Dated Montreal, 8, and 26th Sept. 1812.
- After which the court adjourned to the next day.

Eighth day, Thursday 27th Jan. 1814.

The court met pursuant to adjournment; when, finding that many of the witnesses appeared, it determined to proceed: upon which the Judge advocate called upon Brig. Gen. Lewis Cass; who, being duly sworn, was proceeding with his narrative, when a member of the court suggested the propriety of all other persons present, who had been sum-

named as witnesses, being directed to retire during the examination: No objections to their presence, however, were made on the part of the prisoner, and they were permitted to remain. General Cass proceeded in his evidence, and stated, that he was with the north-western army at Dayton, and had command of the 3d. Regt. of Ohio militia,—that the army was joined at Urbana, by the 4th. Regt. of U. S. Infantry, under Colonel Miller,—that he (witness) arrived at the Miami, on the 29th or 30th June. That he never saw Gen. Hull disciplining, reviewing, or manœuvring the troops in any way from their arrival at Detroit to the time of surrender. That orders were issued; but that he does not know whether there was an orderly book or not. That he was at the rapids when General Hull hired a boat about the 1st July; that he does not know that General Hull had a knowledge of the war having been declared; and that he had not had any conversation with General Hull previous to that time, which could induce General Hull to believe that war was declared—that he does not know what papers were in the boat—that about 40 or 50 men, invalids, his (witnesses) own servant, and part of his baggage were in it: That he did not examine the fort at Detroit very accurately, but thinks that some of the embrasures were defective and wanted repair, and that the platforms were in some measure defective. That he does not recollect the guns and gun carriges. That the picketing was in remarkably good order, and as good as he ever saw; and that he never saw any repairs made either before or after the army went into Canada. That the troops passed over into Canada on the 12th or 16th of July (he could not be precise in the time) and consisted of nearly the whole of the force, excepting invalids and about 100 men of the drafted militia of Ohio—that they landed in good order at Amherstburgh, at about eighteen miles distance; and that the main body of the army left Canada about the 8th August; about 150 or 200 men remaining in their original position for two or three days, in a stockade built on the banks of the river; and which was afterwards destroyed. That there were about 250 or 300 British regulars at Amherstburgh, according to the estimate given to Gen. Hull by the deserters, who came over in hundreds.—General Cass further

stated—That when the army landed in Canada, the militia force there was estimated to be very considerable; but that before the army left that side of the river, this force was supposed to have been very much reduced; probably, and according to the conversation in the American Camp, to one hundred.—Gen. Cass believed that from the day of the arrival of the American army in Canada, the militia men, who were called into the service at Malden, came over to the American Camp, took protection from Gen. Hull, and, within the last fortnight of the army's stay there, the greater part of them left the camp for their own homes, as Gen. Cass supposed.

Big. Gen. Cass further stated, that when the army first went over, but few Indians had joined the British, and that most of those on our side the lake appeared friendly---that few apprehensions were expressed by Gen. Hull, until the fall of Michilimacinae---that Tecumseh was at Malden when the army arrived at Detroit, as was also Marplock, with a band of the Pottowatomies, but not a numerous one. The witness could not state precisely any conversation of Gen. Hull as to the force of Indians at Malden, or their designs---he supposed the fall of Michilimacinae was known to the American army about the 25th, or from that to the end of July; he could not say whether the fall of that place encouraged the Indians to join the British, or not: but that no Indians, to his knowledge or belief, from thence, arrived at either Malden or Detroit (certainly not at Detroit) until three days after the surrender---he stated however, that about the time of the fall of Michilimacinae the Wyandots were either enticed or taken over by the British into their province.

A Map by the English was here presented and admitted to be good, with some few unimportant inaccuracies---viz. The American army did not land at the place described in the map, but below Hog-Island. No redoubt was thrown up in the encampment as described in the map. From Sandwilt to the river Aux Canards lies an open country, cultivated for many years, for a distance of about 12 miles, along or near the river---The river Aux Canards is a small stream, but deep---above the falls over, perhaps not so much,

and has a bridge: there is an open prairie ground from the Camp towards Malden, for the space of about 1-2 miles, near which the ground is bad for marching troops---the whole distance from Sandwich to Malden is quite level.

A sketch of the military post at Amherstburgh was next produced, and admitted to be correct, and as having been taken from Gen. Proctors' trunk---Gen. Cass then stated that he had examined those works since the British left them---that, as to the fort, it is only an outline---that from present appearances the north and the west sides could never have been defended---that the east and west sides appeared to have been rendered defensible a few weeks before the arrival of the American army in Canada---that the whole work, as well curtains as bastions, appeared to have been originally designed to be constructed of earth---that on the north side there was a small curtain of earth thrown up, with a narrow and shallow ditch; but that the east side is now become a very good curtain of earth, secured by logs---that the works of earth are fresh, and appear to have been made a few months previous to Gen. Harrison's landing there---that the west side could never have been very difficult of approach---and that the whole of the works could be commanded from ground about a quarter of a mile up the river, as a person walking in the fort may be seen from that place.

Gen. Cass, in continuing his evidence, stated that he had examined (but not minutely) the fort, before General Hull crossed, and was of opinion that the works were not defensible, which opinion he declared to Gen. Hull, in a conversation with that officer---also, that he knew Gen. Hull to have been at Malden, oftener than once. Witness declared that, on the morning on which the army crossed the Detroit, it was his wish, and, he believes, the wish of most of the officers, to proceed directly and take a position near the river Aux Canards: that the reasons assigned for halting at Detroit were to give an opportunity to the Canadian militia to desert, and to take some heavy cannon---he further stated that, a day or two after crossing the river, Colonel M'Arthur was sent with a considerable portion of his Reg. about 60 miles up the river French, to secure a quantity of flour and some public

property---that during his absence Gen. Cass requested permission of Gen. Hull to reconnoitre the ground between Sandwich and Malden---that he was granted about 280 men under Col. Miller, and proceeded for that purpose---that the detachment took possession of the Bridge Aux Canards, and that the British picket guard fled on their approach---that the witness and Col. Miller considered this bridge as presenting the only point of approach to Malden, and in consequence sent two messages to G. Hull (the latter one a joint note) stating that it was the opinion of the officers that the bridge ought to be maintained---that, in answer to the verbal message, a peremptory order was sent to return---to the written one, a note was returned, that on account of the distance from the Camp, and the necessity of procuring cannon, as well as on account of uneasiness concerning Col. M'Arthur, in his opinion the bridge ought not to be kept; and finally referring to them the discretion of keeping it---that, after part of the 4th Reg. joined them from the Camp, a consultation of officers was held, when it was determined to abandon the bridge, under an impression, by an almost unanimous opinion, that Gen. Hull should have taken the responsibility and not they---the detachment returned to Camp, as did also Col. M'Arthur---that several detachments were afterwards moved to the same place, the object of which the witness did not then recollect. One detachment under the command of the witness to reinforce Gen. M'Arthur, upon a report which proved to be false---another, under Col. Findlay, was also sent and returned---another, under major Denny, the object of which was not known to the witness, was attacked and driven in---another to the river Raisin, under Major Vanhorne, to convoy some provisions. Capt. Brush was bringing from Ohio; which detachment, consisting of about 200 riflemen, of the Ohio volunteers, was attacked and defeated. Witness stated that the insufficiency of the detachment was represented to Gen. Hull in the most earnest manner by himself Col. M'Arthur and Col. Findlay---for reasons given in a long convention, Gen. Hull considered it as competent---while the colonels declared their conviction that it would be defeated--Gen. Cass further stated,

that the report made by him in a letter to Gen. Hull, under date of the 17th July, is a correct statement of the transactions of the detachment under his command, and that of Col. Miller. There were no other operations by that detachment; also, that Col. Miller moved to Brownstown, but whether before or after the evacuation of Canada, he does not remember. That soon after the army had crossed into Canada, a council was called of officers commanding corps, and all the field-officers; when the question put to the council was "Whether Malden should be attacked?" that Gen. Hull stated, that in two days carriages for heavy guns would be ready and cannon mounted---The council, witness believed, was unanimous for an immediate attack upon Malden; and nearly a moiety of the officers was for proceeding without waiting for cannon---a small majority was for waiting two days, if cannon could be obtained by so doing---the cannon were mounted after waiting about that time---that Gen. Hull told the witness that he considered himself pledged to lead the army to Malden, and that the Officers and men, with scarcely a single exception, were ardent to go against that place---Witness thinks, that the day Gen. Hull ordered the army to re-cross the river was the one which had been fixed for the attack of Malden; and says that there was an universal spirit of dissatisfaction, and a feeling of indignation through the army on the promulgation of that order. The court adjourned to the next day.

9th, day, Friday 28th January, 1814.

The court having met, pursuant to adjournment, the examination of B. General Cass was continued: That officer stated, that an order for the march of the troops to Malden had been issued, which he did not yesterday remember; that on conversing since with some gentlemen, he has since recollected that there were other detachments, besides those mentioned by him yesterday, sent from Sandwich; one of which, under Capt. Snelling, was to the river Aux Canards; but for what purpose it was sent, or of what number it consisted he does not recollect: another detachment was under a Mr. Forsyth, to Bellevue, the property of Lord L. but whether this was

part of the detachment under Col. M'Arthur or not, witness does not recollect: it brought down a considerable number of sheep, to the amount of several hundreds, which were taken care of at Detroit and its environs, when surrendered: witness further stated that there were several councils of war held before the army evacuated Canada, besides the one detailed yesterday: one at which two officers of artillery were present: when the question arose "*how heavy guns were to be got down the river to Malden?*" those two officers thought it would be a difficult matter to effect, as there was a bridge over Turkey Creek, 3 miles north of the river Aux Canards, over which they thought the guns could not be taken; those guns were on board of floating batteries; they were therefore of opinion that they should be carried down the river, on those floating batteries, to the northward of that creek: witness does not recollect whether, at the time the council was held, the guns were on board the floating batteries: another objection, made by those two gentlemen to the river Aux Canards, was, that the Queen Charlotte might prevent the passage of the guns. Gen. Cass then stated that the two artillery officers differed from all the Infantry officers as to the transportation of the guns down the creek and river: the former thought there were difficulties which the latter thought might be surmounted; this council was after that mentioned yesterday, but before the order was issued for the troops to march to Malden—several other meetings of officers were called by Gen. Hull.

Gen. Cass next stated, that the troops commenced their retreat from Canada on the 8th August, a little after dark, and were crossing all night; and that the order for so doing was issued about the evening of the same day—and that he is the more confident in this opinion from the sensations it created in the camp. He says that the militia force of the enemy was daily decreasing; while no addition, that he knew of, was made to their force, excepting that of the Wyandots, who live opposite to Malden and on the American side—he does not recollect any previous conversation of Gen. Hull's on the expediency of the evacuation of Canada.

The witness, proceeding in his evidence, said, that the British commenced the erection of two batteries nearly opposite to Detroit, on or about the 10th August, and that no measures were taken to prevent the erection of those batteries before he left Detroit---that those works were carried on by the enemy in open sight of the American army---that the river is about 1100 yards across, and the ground about the same height on both sides---that he is not prepared to say whether or not application was made to Gen. Hull to fire upon the enemy---that he did hear Gen. Hull state, before the evacuation of Canada, that the amount of musket cartridges and of fixed ammunition was large, but does not recollect what that amount was---that the want of ammunition was never stated in any of the different councils as an objection to military operations---and that he understood that Gen. Hull had ordered a quantity of ammunition to be brought. That the situation of the army with respect to provisions was a subject of very frequent conversation between Gen. Hull and the officers---that he never knew or understood that the army was in want, or likely to want. That there was a large quantity of meat in the country surrounding Detroit, on the American side, sufficient to last the army for several months---that he understood from Gen. Hull that, exclusive of a quantity of flour, a large quantity of wheat was to be purchased and ground on the spot; there being two horse-mills and one wind-mill about 8 miles from Detroit, besides water-mills---but he cannot say whether those mills were in operation---that his impression was, that there was a very considerable number of cattle at the river Raisin, but not the same proportion of flour---that is, of provisions sent thither by the State of Ohio---that his opinion, founded upon the opinion of the inhabitants and upon experience, was, that provisions might have been procured there sufficient for the support of the army for 3 or 4 months---that Gen. Hull had lived in that quarter for several years before---and that the resources of the country were a subject of general conversation, as well as of conversations with Gen. Hull.

Gen. Cass then said that he left Detroit on the 14th August in the evening, with a detachment of about 350 men

under Col. M'Arthur, sent by General Hull to open a communication with the river Raisin—this detachment was equally from the regiments commanded by Col. M'Arthur and the witness—that Gen. Hull had received a letter, on the morning of the 14th, from Capt. Brush, advising him that he would, on a certain night, leave the river Raisin by a path which doubled the distance to Detroit, but which was deemed more secure than the shorter one—that this detachment was not furnished with provisions when marched off—they were to march 24 or 30 miles—he believes there was an allowance for provisions—that, after marching till about midnight, the troops lay down, and early on the ensuing morning recommenced their march, which they continued all day; that, towards the evening of the 15th, some mounted men were dispatched to discover, if possible, a trading house, said to be half-way to the Raisin. That when the detachment was half a mile on its return (which it was found necessary to do) there was an order received from Gen. Hull to return; the men had had nothing to eat but corn and pumpkins taken from the adjacent fields. On their return, and when near Detroit they killed one or two oxen. The orders to the detachment were to proceed until they met Capt. Brush, which they expected to do on the 2d day after their departure; that on the evening of the 15th August, at dark, a note was received by Col. M'Arthur from Gen. Hull, stating that Gen. Brock, who had come to the opposite side of the river, had summoned Detroit to surrender, and directing him to return: that they marched so late that night that many of the men could not support the fatigue, and resumed the march very early the next morning; that they heard cannonading at Detroit, and, when within a mile and a half or two miles of that place, met a Frenchman who declared that Detroit had surrendered to the British; that they then fell back 3 or 4 miles, to an advantageous post on the river Rouge, where there was a bridge, at which they thought they could defend themselves, and ascertain whether the fort had really surrendered or not: the intelligence was soon confirmed by deserters from the fort. That a council

of Officers was then held, to consider what course should be pursued. In this council it was considered that 1-4th or perhaps 1-3d of the detachment could make good its retreat to Ohio, and therefore it was determined to send in Capt. Mansfield with a flag to the British commander, to inform him that if there was an unconditional surrender, they (the detachment) were prepared to defend themselves; but, that if there was a condition in the capitulation, that the detachment might return to the United States, they would avail themselves of that condition. That, one hour after Capt. Mansfield's departure, a flag was sent out by Gen. Brock, with a letter, as witness believes, from Gen. Hull, stating that the detachment was included in the capitulation, and requiring its return—that Capt. Mansfield also returned, and said that the detachment had been included in the capitulation: upon which it did return to Detroit and surrendered itself. Gen. Cass further said, that when he left Detroit for the river Raisin, the troops were in good health and spirits; that is—to meet the enemy; but were unpleasantly situated. Being asked by the court what he meant by an unpleasant situation, the witness answered, that the Officers and men had lost all confidence in the commanding Officer—that this was not a matter of mere private opinion, but was the general expression and feeling. The witness said that the character of the Michigan militia stood high. That when the detachment approached Detroit on the south-west part, and afterwards struck the river at Spring Wells, and marched up the river to Detroit, on the morning of the 16th August, when they heard of the surrender, it would have been in the rear of the British: which was a circumstance the British had been apprehensive of.

The witness now, resuming his evidence on the charges generally, further stated, that he never saw much neglect of duty on the part of Gen. Hull before crossing the river at Detroit, except at Urbana and Dayton, where there were opportunities of disciplining the troops.

Question by the Court.—Was there no order for that purpose ?

Witness did not recollect any order, nor any appointment made before the arrival of the troops at Detroit, when Capt. Rickman was appointed ; he never saw Gen. Hull either discipline his troops, or review them ; or visit the guards or the sick ; or attend to the police of the camp ; or reconnoitre the country ; or appear on grand parade ; or perform any of those duties prescribed to General Officers.

Question by the Court.—Were there never any orders issued ?

A. Not to witness's recollection.

Q. Were there not field-officers who reported to G. Hull ?

A. There were. Upon recollection, the witness said he saw Gen. Hull at Dayton teach a column to change front ; and, when the troops marched from Dayton, Gen. Hull gave the word of command, which witness never after heard him do. He never believed Gen. Hull guilty of treason ; never was in action with him, and knows nothing of his courage ; but considered him an inattentive officer.

GEN. CASS WAS THEN EXAMINED BY THE COURT.

Q. Were there any artillery officers present at the council prior to that in which the attack on Malden was determined on ?

A. I do not recollect ; but believe Capt. Dyson was present.

Q. Was there any new impediment to the passing of the cannon ?

A. I neither knew nor heard of any.

Q. Did the army retire from Canada in good order ?

A. There was not much order with new troops in a retreat by night.

Q. Was the order to retreat the act of a council, or the individual act of the General ?

A. I never heard of any council. I know it was strongly opposed by the army.

Q. Had you any reason to know that Gen. Hull was acquainted with the detachment under Col. M'Arthur's being

on its return to Detroit, or was any messenger sent to advise the General of it ?

A. The dragoons were sent to reconnoitre, but returned on account of the Indians.

Q. Do you know the cause of the sudden retreat from Canada ? Was there a large force in the neighbourhood ?

A. After the fall of Mackanae (Michillimakanack) Gen. Hull appeared to be under great and severe apprehensions, and apprehended a great force from that quarter. I also believe he saw two letters, one from Gen. P. B. Porter, and the other from Gen. Hall, stating that Gen. Brock was marching up. I believe these letters were received by Gen. Hull after the surrender of Detroit.

BRIG. GEN. CASS WAS NOW CROSS-EXAMINED BY THE PRISONER.

Q. Who were the officers who applied to Gen. Hull for an order of battle ?

A. I think Col. M'Arthur, Lt. Col. Mills, and Lt. Col. Findlay, applied ; but the paper shewn (here a paper marked "Vanbeuren C" was shewn) was not the order of battle agreed to by the officers.

Q. Was not the order of march just shewn, published or made known to the army ?

A. I do not know ; but presume it was.

Q. Had you any conversation with Gen. Hull respecting the despatch of the vessel from the Miami ?

A. I do not recollect ; but presume I had.

Q. Did you apprehend that there was war then ?

A. I did not ; or I would not have sent my baggage.

Q. Whether or not did Gen. Hull think it expedient, under the then existing circumstances, to send the vessel from the Miami ?

A. It is impossible for me, at this distance of time, to recollect ; but I believe that Gen. Hull's reason for sending the vessel was to save the expense of sending the teams further. I think that was one of the reasons given for sending the vessel.

Q. Was it not a wilderness through which the army had to march ?

A. From about 14 miles north of Urbana to Miami it was.

Q. Was the order of march conformable to this plan, and were the officers consulted respecting it?

A. It was nearly; with the exception that the columns were never closed with the rear guard, nor the baggage in the centre. It was, I believe, the order of march by Gen. Wayne, adopted by Gen. Harrison in the same country, and proposed by Col. Miller or Findlay.

Q. Was not the army on its march as liable to be attacked in its rear, as on its flank or in its front?

A. I think we were as liable to be attacked on one point as on another.

Q. Were there not directions, accompanying this order of march, in what way the army was to form in case of attack?

A. I do not know that such directions were given.

Q. After I took command of the troops at Dayton, were not the sentiments I expressed to the troops, and the measures I adopted, calculated to inspire the troops with ambition, regularity and discipline?

A. I do not recollect any sentiments expressed, other than the address to the troops; which I think was a good one, and that you acquitted yourself on the occasion very well. With respect to measures; I do not know that any were adopted in relation to those objects.

Q. Whether or not, when I took the command at Dayton, were orders issued for the different regiments to parade by companies in the morning, and by regiments in the afternoon for exercise?

A. With the exception I have before stated, I do not recollect such orders.

Q. Do you not recollect my exercising the troops at Urbana, myself?

A. The army was out, for the purpose of being reviewed by Governor Meigs.

The court adjourned to the next day.

10th day. Saturday, 29th Jan. 1814.

THE CROSS EXAMINATION OF BRIGADIER GENERAL CASS
CONTINUED.

A letter dated Sandwich 17th July, 1812, was exhibited by General Hull to General Cass.

Q. Is that a copy of the letter sent to you at River Aux Canards?

A. It is in substance.

Q. How many days was the army at Detroit before it crossed to Sandwich?

A. I think 5 or 6 days. We arrived at the Spring Wells, near Detroit, staid two or three days at the wells and crossed on the 12th.

Q. What could have been done to the works, previous to crossing?

A. There could have been a great deal done, or very little. I cannot answer with precision—I was not in the fort at Detroit, until my return from Canada—I wish to give a proper answer. The Army had had a tedious march, and therefore it might have been right to employ the troops upon fatigues.

Q. Are you acquainted with Capt. Thorpe, of the artificers?

A. I am.

Q. Was I not employed, before crossing the river, in organizing a corps of artificers.

A. A corps of artificers was organized under Capt. Thorpe, but whether before or after the passage, I cannot say.

Q. Were not artificers called from the different regiments?

A. There were some detailed from the regiment under my command, and probably from the rest.

Q. After we arrived at Detroit, and before crossing the river, were not several detachments sent to obtain boats and other means of crossing the river?

A. I do not recollect; boats were collected and collecting; I do not know of any public boats.

Q. Was it not apprehended that the fall of Mackinac would have an injurious effect upon the Indians and Canadian militia?

A. As I before stated, Gen. Hull felt great apprehensions ; but I did not ; nor do I believe the other officers did---the objects of the expedition might, in my opinion, have been effected before any ill effects were felt. I do not know of a single Indian having arrived at Detroit until three days after the surrender---Neither was there much danger to be apprehended from the Canadian inhabitants, as in my opinion the greater proportion of them had taken protection from Gen. Hull.

Q. Who commanded the British at Malden, about the beginning of August ?

A. On or about the 7th August, General Proctor succeeded Col. St. George in the command.

Q. Did not Gen. Proctor bring a considerable reinforcement ?

A. The impression on my mind is that about 100 men arrived there with him.

Q. When you received my letter at River Aux Canards, was the opinion of the officers, about returning, unanimous ?

A. I think it was, or nearly so.

Q. Were instructions given to Major Vanhorne to take a bye-path ?

A. I understood there were.

Q. Was not Brownstown to be avoided ?

A. I think he was instructed to avoid Brownstown.

Q. Was the force that attacked Major Vanhorne any other than of Indians ?

A. I do not know, but understood so. I believe a detachment of British troops passed over from Malden, during the fire and after Major Vanhorne's action.

Q. Was the council, at which the field officers were, called shortly after our arrival in Canada ?

A. I do not know, but presume it was.

Q. Was not the question---whether Malden should be attacked ? proposed in that council ?

A. I think it was.

Q. Did I not state to this council that the artillery was not prepared, having only 6 pounders ?

A. I cannot say. It is probable.

Q. Did I not state to the council that the enemy at Malden had 18 and 24 pounders?

A. Very probably, but I do not recollect it.

Q. Did I not state that we must rely upon the bayonet alone, for want of cannon to make a breach?

A. I think you did.

Q. Did I not submit to the commanders of new troops, that if they were confident in their dependence upon their men, to storm regular works manned with regular troops, and that with the bayonet, I would lead them?

A. I think Gen Hull might have had the valour, but as to his offer to lead them, I do not recollect it---my opinion and impression was, and I believe it was that of commanding officers of regiments, that the army could take the fort.

Q. What was the opinion of this Council?

A. I think that by a majority of one, it was agreed to wait for the heavy ordnance.

Q. Did I not state on the 7th August, previous to the retreat to Detroit, that my object in returning to Detroit was to concentrate my forces, the better to open my communication with the river Raisin?

A. I recollect that General Hull, on the evening of the retreat, endeavoured to satisfy the officers (that is, the commanders of regiments) that the evacuation would be proper for the purpose stated in the question, but they thought differently---The General ordered his own opinion to be carried into effect, considering himself as the responsible person; observing farther that he thought the act proper, and although his son, his officers and every person were against him, he would act agreeably to his own judgment.

Q. Did I not inform you, previous to crossing, that major Chambers, of the 41st British regiment was advancing from Fort George against our army at the head of Lake Ontario, (Moravian grounds) with artillery and an additional force of militia?

A. Gen. Hull stated that Major C. was at the head of river French, with some regulars and some Indians, and was raising the militia. I believe this was previous to our

leaving Canada, but am not certain : the distance between Detroit and river French, where Major C. was, is one hundred and twenty miles.

Q. Was not the march through the wilderness a heavy and fatiguing one ?

A. It was : and Gen. Hull hurried us as much as was proper.

Q. Do you not recollect my order for the building of several block houses ?

A. There were two completed on our march ; one commenced, but left incomplete ; and a detachment was left at Miami to build a fourth. The army marched from Dayton to Stanton, with a view of taking a different route from the one taken.

Q. Do you recollect a council of war held at my house, at Detroit, on the 9th, July, and what was said and done ?

A. I do. The order from the Secretary at war was submitted to the court, directing you, on your arrival at Detroit, to take measures for securing your post, and to wait further orders. At that time it appeared as if the enemy were erecting batteries on the opposite shore : it however subsequently appeared that it was not the case. It was my opinion, and that of the other officers generally, that you ought to cross the river without further orders. My impression was that Gen. Hull agreed to cross the Detroit, without further orders from the Secretary of war. Gen. Hull was very much embarrassed and was relieved by an order received that very night.

Q. When did you arrive at Detroit after the capitulation ?

A. On the same day after dark.

Q. Were not all the militia who had joined the army, excepting twelve hundred, unauthorized by government ?

A. I do not know. I understood that twelve hundred were required by government from Ohio ; all the rest were taken under the responsibility of Governor Meigs.

Here the cross examination of Brig. Gen. Cass was closed ; and he was re-examined by the court.

Gen. Hull's order of the 17th August, marked "taken of Gen. Proctor" was produced. It was directed to the commanding officer at the Rapids, desiring him to surrender with his men as being included in the capitulation, and belonging to Michigan territory, a distance of many miles from Detroit--General Cass said that 30 or 40 men of the Ohio militia made off and returned home in safety, after giving notice to Captain Brush, who also returned home with his detachment, without regarding the capitulation, of which he heard.

Here M'Arthur, page 84, was referred to by the Judge Advocate, as to matters of opinion, in consequence of which farther questions to General Cass were waived.

General Cass then said that at the time of the evacuation of Canada; but thinks, after that event; if General Hull had retired from Detroit to take up a position at Raisin, in his opinion the Ohio volunteers would have left him--The witness does not recollect that General Hull suggested to him the idea of such a retreat, as an event which a subsequent state of things might require; or that he told General Hull that the Ohio militia would leave him: although he thinks they would have done so, under the idea of a surrender--but that if it was deemed a necessary and proper step they would not.

Question by the Court—Were the orders for detachments from the army regularly accompanied with directions, in the general order, for the number of rations to be issued and taken with the detachment?

A. I do not recollect; but I rather think not.

Q. By General Hull.

When the detachment under General M'Arthur arrived near Detroit, on the day of the surrender, did it not occur to you that some signal might be given to the fort, informing them of your approach?

A. Before we got near enough to the fort to make any signals, we heard from a Frenchman that the fort had surrendered, which was done when the detachment was 4 or 5 miles from the fort. We also saw Indians catching horses and shooting cattle.

The court adjourned to Monday next.

11th day, Monday 31st, January, 1814.

The Court met, pursuant to adjournment, when major Jonah Snelling, of the 4th Infantry, called on the part of the U. S. was sworn and examined: He stated that he joined the N. W. army at Urbana, and remained with it as captain until the surrender to general Brock—that he never heard of any order of battle—that he understood there was an order of march, but never saw it promulgated in orders: that the army marched with an advanced guard and flanking parties, and arrived at the rapids on or about the 30th June—that he heard there was a message in camp from Washington; that the first intimation he had of the hiring of a vessel was on the 1st July, when Col. Miller called at the officers tents and told them they must put their baggage on board of vessels for Detroit. That the army arrived at Springwells on the 5th July, that on or about the 6th or 7th, the whole army marched through Detroit in the morning and returned in the afternoon; on the 6th or 7th marched from Springwells—on the 8th or 9th marched with baggage and camp equipage and encamped in the rear of the town of Detroit—it remained there until the 12th, when the whole army crossed over into Canada: Gen. Hull, as witness believes, crossed over with the last division of the army. That witness was in Canada about 16 days with the army, during which time fatigue parties were detailed every day; that witness then returned to Detroit with a detachment under Col. Miller, to prepare artillery &c. for the attack on Malden; but does not know if the detachment was employed on that service—that he was in the detachment under Col. Cass that took the bridge; that it was the opinion of the officers generally, and he believes unanimously, that the possession of the bridge was of great importance towards taking Malden—that this opinion was communicated to Gen. Hull, who returned an answer, leaving it to the discretion of the officers; upon which they determined to evacuate the bridge. That the officers did not persist in their opinion, because they thought, or at least he did, that the Gen. should have

taken the responsibility on himself, and not have thrown it upon the officers—that the principal reason by which the officers were influenced, was their thinking it was a proper position for the army, which, it was expected would move down; but that the distance from the then position of the army was too great for a picquet guard. That witness was sent with a reinforcement of between 80 and 90 men to reinforce, or rather to cover the retreat of Major Vanhorne, as soon as it was reported that he was in danger; but that the detachment did not proceed far before Major Vanhorne's party was met returning. That while witness was in camp at Sandwich, an attack on the Queen Charlotte was contemplated.

Here an objection was made by Gen. Hull to Major Snelling's testifying to any thing not in the charges or specification, upon which the Judge advocate submitted the following questions, which were waived for the present.

Q Was an attack on the Queen Charlotte contemplated, previous to the capitulation?---Were there any preparations made by our army to carry it into effect?---was the plan abandoned; and what were the reasons assigned by Gen. Hull for so abandoning it?

Major Snelling then stated that he remembers seeing the enemy erecting batteries on the opposite side of Detroit river on the morning of the 15th August, that a court of enquiry was sitting to inquire into the conduct of Lt. Hanks, when about 10 A. M. captain Fuller saw a white flag crossing, upon which Col. Miller adjourned the court---that witness then proceeded with Captain Fuller to receive the flag---that Lt. Col. M'Donald and Capt Glegg bore the flag, were blindfolded and conducted by order of General Hull to a house near the fort (100 or 200 yards distant) belonging to major Hunt, civil aid to General Hull, until the communication was made to General Hull, who directed the gentlemen to be detained; which was done until 3 o'clock P. M. during which time they were uneasy at their detention---that witness went into the street, and saw captain Hull, aid de camp to his father, who said he had the letter in reply in his pocket; but was ordered to with-

hold it, under the idea of giving the army time for defence. That witness however soon saw people running into the fort and in all directions, carrying beds, &c. That witness and captain Fuller were stationed near Hunt's house in the citadel yard--that the rendezvous of the regiment was in the Fort, that of the militia in the rear of the town, in the open ground; that he had no knowledge of the movements of the troops, or of any orders being given: that witness perceived with a glass the enemy taking down a building which covered a masked battery erected by them; and that in about an hour after the return to their side of Lt. Col. McDonald and Captain Glegg, a firing of cannon commenced, upon which witness formed his company and the remainder of the 4th regiment (Col. Miller being sick) in the citadel yard, and then repaired towards the fort, and on his way met General Hull in the street, whom witness asked for orders; when the General directed him to proceed to the fort, and post his men in the ramparts, which was done; part of them put to the guns and others provided with pikes. That towards sundown witness was ordered with 47 or 50 men and a field piece (4pr.) to Spring Wells (about 3 miles distant) as a picquet guard—He had also 3 dragoons, to serve as expresses in case of need---that the Queen Charlotte on the same day had moved up the river, directly opposite to Springwells; that the orders witness received were, to take a post at Springwells, report any movements of the enemy which he might discover, and return by break of day, so as to avoid the fire of the Queen Charlotte which lay in the middle of the channel—that the shore was much higher than the decks of that vessel, and the river at Springwells about 3-4 of a mile broad; that the detachment could have moved by other routes, but not the artillery, and that the road was directly on the shore. That witness sent a dragoon to communicate to Gen. Hull; that Col. Taylor and Major Jessup visited Springwells, and were consulted on the expediency of having a 24pr. brought, to be posted on the artificial mound, with a view to dislodge the Queen Charlotte from her moorings; that another dragoon was despatched to acquaint Gen. Hull verbally, that those officers coincided in opinion with the witness that a 24 pounder would do well, and that they

recommended it to Gen. Hull--that the dragoon returned with an answer, that a 24 pounder could not be transported over the bridge; which bridge, witness says was about 12 or 14 feet high, and 8 or 10 yards long, and built of wood--that Capt. Hull was also there and proposed recommending it to Gen. Hull to send a 24 pounder. That witness heard of no military movements during the night; he heard oars, which he supposed were in two or three boats, passing from the Queen Charlotte to the Brig Hunter or to the Enemy's shore. That witness thought, with the other officers that a 24 pounder could have been transported across the bridge. That witness returned to the fort at Detroit about dawn of day, soon after which the cannonading and bombardment commenced from the enemy, and were returned by the American batteries on the river, but not from the fort. That about 7 o'clock in the morning the British were seen from the ramparts, crossing the river, which was reported by witness to Gen. Hull: that no resistance, which witness knows of was made either to their landing or to their approach--that two shots took effect on us, one of which killed two commissioned officers and a surgeon, and wounded another surgeon, the other killed two privates. That soon afterwards Capt. Hull was sent across the river with a flag of truce, and witness was ordered by Gen. Hull to proceed to Col. Findlay, who was stationed with Major Denny and his Regt. about four hundred yards in advance towards Springwells, and direct him to retreat to the fort. That the artillery, ammunition and part of the 4th Regt. were at the batteries, two of which were on the banks of the river, the other in Judge Woodward's garden--the Michigan militia were in the rear of the town. That witness delivered the order to Col. Findlay who appeared unwilling to obey it by marching his Regt. into the fort. That, after this service, witness repaired to the battery commanded by Major Anderson, where a British officer, Lieut. Duer, of the Quarter-master's department, arrived with a man bearing a flag of truce, to know why our flag was sent over the river; that witness replied he believed it had been sent with a message from Gen. Hull to Gen. Broek, who was sup-

posed to be on the other side of the river. That witness then sent Lt. Hunt on horseback to Gen. Hull, who returned with a sealed paper from Gen. Hull, addressed to Gen. Brock, with directions to witness to proceed to Gen. Brock with the same. That witness carried and delivered the note to Gen. Brock, who was two hundred yards in advance of the head of his column, without any advance-guard. That the enemy was then near the house at which Doctor Henry resided, about $\frac{3}{4}$ of a mile, or a mile from the fort at Detroit—that the note was, as far as witness recollects, having seen it in the hands of Lt. Col. M'Donald.

Here an objection was taken to this part of the evidence, by the prisoner, who desired that the questions, in the present point of enquiry, should be taken down in writing; and that the answer should be taken to each interrogatory distinctly. The following questions were then put.

Q. Was the note brought to you by Lt. Hunt, the one delivered by you to Gen. Brock?

A. It was.

Q. Did you see this note afterwards? If so, when and where; and what reason have you for believing it to be the same?

A. I did. Gen. Brock put it into the hands of Lt. Col. M'Donald in my presence; and while Col. M'Donald and Capt. Glegg were engaged in writing the articles of capitulation, I saw Col. M'Donald lay it on the table or writing desk. I then read it as it lay on the table or desk, and have no doubt it was the same paper I handed to Gen. Brock.

Q. Were you acquainted with the hand writing of Gen. Hull?

A. I had seen it many times.

Q. Had you at the time any doubt that it was in the hand writing of Gen. Hull?

A. None at all. My opinion is founded upon the knowledge I have of the General's handwriting, and the circumstances under which the note was delivered to me.

Q. Were the British officers conducted to the place where the articles of capitulation were drawn up, in consequence of that note; and were they there met by Gen. Hull?

A. After I delivered the note, Gen. Brock asked me whether I was authorized to agree to settle the terms: I replied that I was not. He then directed Col. M'Donald and Capt. Glegg, to accompany me to the fort; when on the way, we were met by some person (whom I do not recollect) who directed us to a marquee which had been pitched a short time before, as I understood, by the orders of Gen. Hull.

Q. What were the contents of the note?

A. I cannot now speak with certainty: but my best recollection is that it contained these words. "Sir, I agree to surrender the fort and town of Detroit;" and was signed "William Hull," Brig. Gen. United States army. I considered at the time that it was a surrender without stipulation—The witness would not undertake to say that what he had stated was the whole substance of the note; but he believed it was.

Witness then proceeded in the usual manner to state further, and said, that Capt. Hull, who had been sent over the river with a flag, did not return until after the British flag was hoisted—That Gen. Hull came within a few paces of the marquee in which Col. M'Donald and Captain Glegg were; that Gen. Hull was conversing with Col. Findlay, who spoke with considerable warmth; that witness did not hear distinctly, but understood that he, Col. Findlay, would have nothing to do with the capitulation—that Lt. Col. Miller and Captain Brush were directed to confer, and did confer with the British Officers with respect to the terms of the capitulation—that Lieut. Col. Miller at the time had a violent fit of ague, and lay on the ground while the officers were engaged in drawing up the articles of capitulation; that many of the American officers assembled near the marquee, when Gen. Hull desired them to retire; and that witness, who was one of them, retired accordingly.

Witness then stated that during the cannonade of the 16th, he saw Gen. Hull get up once for some particular purpose, and perhaps twice; and that, during the residue of the time, he was sitting on an old tent, or something of that sort, on

the ground, with his back against the ramparts, and under the curtain nearest the enemy.

Here, at the solicitation of the prisoner's counsel the remainder of the evidence was, to be taken down by question and answer.

Q. Were the appearance, conduct and conversation of Gen. Hull such as to induce a belief that he was under the influence of personal fear?

A. I have always understood that the passion of fear is indicated by certain looks and actions; and, judging from past knowledge on that subject, I thought him under the influence of fear: his whole conduct made that impression on my mind at the time.—The reasons that induced me to draw that conclusion were; that the General selected the safest place in the fort for his seat, on an old tent on the ground and leaned against the ramparts between the guard house and the gate: his voice trembled when he spoke—he apparently unconsciously filled his mouth with tobacco, putting in quid after quid, more than he generally did: the spittle coloured with tobacco-juice ran from his mouth on his neckcloth, beard, cravat and vest—he would rub the lower part of his face, which was apparently covered with spittle; he was repeatedly informed that the enemy were crossing the river, but he took no measures to oppose them, with which I am acquainted.

The witness then proceeded to state that the American troops were called into the fort—which was very much crowded, before the articles of capitulation were signed. That when Gen. Hull was informed that the enemy were crossing, he made no other answer to Lieutenant Peckham (to the knowledge of witness) than “are they coming?” That witness stood at the corner of a slip leading to the gate of the fort, and attempted to count the British troops on entering the fort—that the troops in advance were the 41st, in platoons of fourteen files, as well as the York militia volunteers—twenty nine platoons, two deep, in red coats—that the militia platoons consisted of no more than seven or eight files, and composed one third of the whole force—probably seven hundred and fifty whites—of which the remaining two thirds

were regulars and uniform militia. Witness supposes the Indian force to have been more than one hundred and fifty, although he only saw about that number drawn up to fire a salute as he understood.

Witness says that the spirit of the American troops to meet the enemy was, in his opinion of the most laudable kind, and he believes pervaded the whole of them, but certainly his regiment, the 4th--and that when at Urbana he was at a grand parade; which was the only time he saw the whole of the troops together for parade.

Question by the court--What was the state of the discipline of the army, generally?

A. I never saw the army parade but once at Urbana, and therefore cannot judge--I can answer only for the 4th regiment. The 4th regiment had been on service four years, and was in good discipline.

The court adjourned to the next day.

12th day, Tuesday, Feb. 14th, 1814.

The court met pursuant to adjournment, and was opened by Gen. Hull's waiving the objection taken by him yesterday to the examination of Major Smelling respecting the Queen Charlotte--The Judge Advocate however considered the objection a valid one, the subject matter of that ship not being contained in the specification, and therefore would not at present avail himself of the General's permission. Major Smelling's examination was then continued.

The witness stated that he informed Gen. Hull, on the morning of the surrender, that the ammunition out side the should be brought in--that a detachment from the 4th regiment was ordered to remove it; in which business witness saw them engaged, and supposes nineteen or twenty casks of one hundred pounds each, were brought in--that he never heard it suggested by any individual, before the capitulation, that there was a scarcity of either provisions or ammunition. That after the battle of Brounstown a requisition was made for a quantity of ammunition, to complete thirty rounds for each man of the 4th regiment, and which they had

at the surrender, and that he has no knowledge of any council of war held on the occasion of the surrender.—Here the direct questions of the Judge advocate ceased.

Q. By a member of the Court—What was the amount of the effective American force at Detroit ?

A. I am unable to answer—The 4th regiment according to my recollection had not more than three hundred and twenty effective men—in the aggregate about four hundred men.

Q. Whether was it usual for commanders of detachments of regiments and of companies to send daily for orders ?

A. It was.

Q. Whether were the U. S. troops so placed by the orders of Gen. Hull, as to prevent them from acting with effect ?

A. The main body of troops were so crowded in the fort as to render it impossible for them to act offensively—that is, just before the articles of capitulation were agreed upon—the orders were given to Col. Findlay immediately after five, when the flag was sent by Capt. Hull.

CROSS-EXAMINED BY GENERAL HULL.

Q. From whom did you receive your orders to return from your station at Spring Wells at day light on the morning of the 16th ?

A. From some person in the General's family—I do not recollect whom.

Q. You say, by one of the General's family: do you mean by one of his aids, or by whom ?

A. From Brig. Major Jessup, I believe, but am not certain—on my return I reported myself to General Hull.

Major Snellely, on a revisal of the evidence, here stated that there was a man called Col. Wallace, not recognized by the officers, who wore two epaulets.

Q. Did you return with your detachment alone, and at what hour ?

A. I returned with my detachment before day. I think day-dawn was perceptible on my arrival at the fort, but am not certain.

Q. Where did you first go when you returned from the Springwells?

A. The piece of artillery I left at the gate of the citadel; my detachment I marched with into the fort.

Q. Were you in bed after you returned, and how long before the firing commenced?

A. The piece of artillery I left at the gate of the Citadel my detachment I marched with into the fort.

Q. Were you in bed after your return, and how long before the firing commenced in the morning?

A. On my return I enquired for Gen. Hull, and could find no one who could tell me where he was. I then went into a room occupied by Capt. Dyson, and threw myself down upon a straw bed, and had been there but a few minutes, having scarcely lost my recollection, when I heard a gun fired.

Q. After you reported to the General that the enemy were crossing, were not the troops at the alarm post and at the fort, and formed between the enemy and the fort? What troops were there so formed, and how formed?

A. I did not report on my arrival from Springwells that the enemy was crossing. I afterwards discovered them from the parapets: at the time it was reported they were crossing the 4th regiment was on the parapets: as to the disposition of the other troops I cannot say.

Q. Where were Col. Findlay's corps, and the residue of Col. M'Arthur and Cass's at this time? Or where did you find them when you were ordered to Col. Findlay to direct him to retreat?

A. I found Col. Findley in advance of the fort towards the enemy, behind a picket fence. I think Maj. Denny was a little in the rear, on the left flank.

Q. Was I in the fort when the officers were killed?

A. I do not know that Gen. Hull was in the fort. I saw him immediately after.

Q. How long was it, after the officers were killed, that the white flag was hoisted?

A. I did not know that the white flag was hoisted, nor did I see one until in the hands of Capt. Hull; and that was a

short time after the officers were killed—perhaps an hour, or fifteen or twenty minutes.

Q. Was it after I came into the fort and before the white flag was in Capt. Hull's hands, that you saw me in the situation described yesterday?

A. I cannot say it was at that time that I saw Gen. Hull in the situation described—I think it was at the time Capt. Hull was fixing the white flag on the staff—the General was standing near the ramparts.

Q. Is it not within your recollection that I was several times that morning on horseback, with Colonel Findley's regiment, the Michigan militia, in the upper part of the town and at the batteries?

A. I think the General was out of the fort that morning, but where I cannot say—I saw his horse tied in the passage.

Q. Was I not out during the cannonade?

A. Not to my knowledge.

Q. How did it happen that you sent your orderly book by the vessel to Detroit?

A. I had but one large trunk for my baggage, and a small portmantau which would not contain the book—I was ordered to send my baggage, and of course sent the book.

The cross examination was here ended, for the present. Major Snelling was again examined by the court and stated-- That when the enemy were crossing, they were observed by witness and other officers from the parapet--that Gen. Hull was then standing on the ground, on the parade within the fort; and he does not recollect seeing Gen. Hull on the parapet to view the enemy; who, when they had crossed, were out of sight of the witness in the fort. Witness heard no order from Gen. Hull for the purpose of ascertaining the number of the enemy's force, nor did he know of any measures being taken for that purpose--That, when the first report was made that the enemy were crossing witness stood by, and is confident no order for that purpose was given, but measures might have been taken afterwards without his knowledge--

Capt. Saml. M. Cormick, of U. S. Rangers, being sworn, said, That he belonged to the north western company under the command of Gen. Hull, that he joined it at Urbana and continued

with it until the capitulation---that by desire of the Governor he acted as adjutant to Col. Findlay's Reg. of Ohio volunteers, that he recollects detachments being frequently taken from that regiment---that those detachments were frequently detained for want of provisions, sometimes half a day, and that they sometimes went and returned without any---that he never knew an order issued that the quarter-master was to draw provisions---that he was at Detroit at the time of the capitulation---that Col. Findlay's regiment was encamped in the rear of the town on the 15th, when the cannonading commenced---that they lay on their arms all night, and had a chain of sentinels posted nearly three hundred yards in advance---that Capt. Kemper of the waggoners with about thirty volunteers, formed a picket guard along a fence---that it was expected the savages would attack from the woods---that Capt. Robinson, with his company was in a meadow---that during the night he received no orders from G. Hull---that he was not present when Col. Findlay received orders from General Hull on the 16th August to return, but joined Col. Findlay, after he had received that order---that the Col. appeared dissatisfied and distressed, and almost determined not to obey it---that witness had halted two of the companies, when the Col. rode up to him, and told him to march on---that between 9 and 10, A. M. when ordered to halt near the fort, on the outside, Col. Findlay and witness dismounted from their horses, went into the fort together, and enquired for Gen. Hull, who was seen sitting on something on the ground with his back to the ramparts---that Col. Findlay asked Gen. Hull "What in hell am I ordered here for?" to which question the General, in a low trembling tone of voice, replied, stating the number of men killed in the fort, (witness thinks three men) that a surrender would be best---that he could procure better terms from General Brock at that time than if he waited a storm---that the reply of Col. Findlay was---*terms ! Damnation ! we can beat them on the plain. I did not come here to capitulate ; I came to fight*---Col. Findlay enquired where Col. Miller was, turned and left the General---a moment afterwards I left him. The General, appeared much agitated, and in as great fear as I

ever saw any person---he had used so much tobacco as to have the lower part of his face much discoloured by it.

Capt. M'Cormick, continuing his evidence, stated that the troops that were out on the lines marched into the fort about the time the British officers, General Hull and Col. Miller and Brush went to the officers' quarters---that to the best of his recollection, Col. Findlay's regiment was on that day between 430 and 460 strong, who marched into the fort--that there were under arms, outside of the fort, (and who also marched in) including Col. Findlay's regiment, Major ---, from colonel M'Arthur's regiment, the company of waggoners belonging to captain Kemper, part of Col. Cass's regiment under Capt. Sanderson, and a detachment of Michigan militia under Lt. Brady, a number which he estimated at between 800 and 1000 men---that the fort was very much crowded---that the spirit of the men formed outside the fort was evinced by their saying, *they would have an opportunity of revenging themselves for the injuries they had received, by killing most of the enemy*--that many of the private soldiers were seen to shed tears in abundance on receiving the orders of surrender, that the picket fence, behind which Col. Findlay's regiment was posted, was generally so close as that the rails nearly touched each other, and many of the men employed tomahawks to open a space for their muskets---that on the evening of the 15th, the quarter-master supplied Col. Findlay's reg. with as many cartridges as the boxes could contain---that he never heard any complaints of the *quantity* of the provisions or ammunition, though he did of the *quality*; nor were any apprehensions entertained of a scarcity, there being in the town plenty of salt, of pork and sheep, grain and stock.

CAPT. M'CORMICK WAS NOW CROSS EXAMINED BY THE PRISONER.

Q. How long was it after the cannonading ceased, before your Reg. marched from the picket fence ?

A. Probably from one to three quarters of an hour.

Q. How long was it after the cannonading that you arrived at the fort ?

A. About half an hour.

Q. Did you not see me at the picketed fence when Col. Findlays regiment was there ?

A. I saw you once that morning ; it appears to me it was there.

The court adjourned to the next day.

13th day, Wednesday, 2d Feb. 1814

The court met pursuant to adjournment, when Brig. General Duncan M'Arthur was sworn, and stated---That he belonged to the North Western army commanded by General Hull, and was elected to the command of the 1st regiment of Ohio volunteers at Dayton ; that they marched from Dayton to Stanton, and thence to Urbana---that he knows of no material occurrence in the army until its arrival at Blanchard's fork, now known by the name of Fort Findlay. That on or about the evening of the 26th June, an express arrived from Chillicothe with a letter handed to General Hull, who, after reading it, gave it to the witness ; the witness thinks it was a letter from the Secretary of war, dated 18th June, 1812--that he cannot recollect the whole precise words, but that the substance was "that circumstances had occurred there (at Washington) which rendered it necessary for General Hull to proceed to Detroit with all possible expedition, prepare for defence and wait farther orders."---that witness also received by the same express a letter from a friend at Chillicothe, giving a postscript, said to be from a letter from General Worthington, senator in Congress.

Q. Do you know that the letter you speak of is in existence ?

Here arose an objection, on the part of General Hull, to parole evidence, "unless it be proved that the letter has been lost or destroyed."

A. I do not---it may or may not be in existence.

Q. Did you communicate the contents of that letter to General Hull ?

A. I did.

Q. What were its contents ?

The court was now closed for the purpose of considering the objection, and the propriety of disclosing the contents of the letter again—When the court was opened, the objection, was declared to be overruled.

A. The postscript to the letter communicated to General Hull was “before this reaches you, war will be declared.” Col. Dunlap, the express, also stated to witness that the impression at Chillicothe was that war was declared; this I also communicated to General Hull, who asked me, when he put the Secretary of war’s letter into my hands, what I thought of it—to which I replied that I thought it a notice of a declaration of war—Some farther conversation ensued, upon the whole of which, and a comparison of former communications from Washington from time to time, it was inferred that war was then declared.

General M^rArthur now proceeded in the usual manner, and stated—that Col. Cass was at that time, in advance, opening the road, and Gen. Hull proceeded after him with the army, and, as witness thinks, on the third day in the afternoon arrived at the Rapids of Miami, after passing through some wet roads in the prairie—that platoon officers and men appeared desirous of crossing the river that afternoon, and to wade across for the purpose of cleaning themselves—that witness applied to General Hull for permission to cross the river, which was refused, and the army ordered to encamp, and on the next morning the army was ordered to shift and put on clean clothes—that some time was taken up in making the men appear to advantage in passing a settlement, principally consisting of French inhabitants—that the army crossed the river in boats, passed through a village in sections or small platoons, and encamped about four miles from the place whence it started—Witness thinks this was on the last day of the month—some time was taken up in mustering the men and calling the rolls.

Gen. M^rArthur then stated that General Hull sent for him (the witness) to his tent, and on witness’s arrival asked what he thought of sending the baggage by water; to which witness replied, in substance, that he thought it would be rather hazardous as the British might be informed of the

declaration of war, and seize the vessel---that witness thinks Gen. Hull, stated that he could not imagine there was any danger, and that if the wind was fair, the vessel would pass in a very short time---that it was not probable she would be molested, and that he could not think of taking the responsibility of carrying the teams any farther---That witness believes there was an order issued, but whether verbal or written he does not recollect, directing the baggage to be sent on by water---that the risk of sending the baggage by water was the subject of general conversation in the camp, and that witness stated to Gen. Hull that he would take as much of his own baggage by land as he could, which he did. That the army proceeded towards Detroit from the foot of the Rapids, and on the 1st, or 2d, July the commanders of regiments were called upon by the General to attend at his tent, and were informed of the receipt of a letter by him, notifying the declaration of war---that the army proceeded on its march, and on the second night encamped near River Raisin, where the men (who were then undressed) were, as usual, dressed---that the army encamped near Swan Creek, about nine miles from the river Raisin---that rumours were afloat among the inhabitants that we should be attacked by the Indians on the river Euron, six miles from the encampment, and that Col. Findlay and the witness called upon General Hull, and stated that they thought it would be advantageous to agree upon some plan of battle in case of an attack.

The witness then, proceeded to state that in the order of march hitherto pursued, his regiment had marched in two battalions, one of them in the rear of colonel Findlay's regiment, and the other in the rear of Col. Cass's regiment---that, as from this position of his men, he, the witness, could not be with both his battalions, he wished to have them formed in one line, if an attack should take place; he therefore applied to Gen. Hull who observed it would be well enough to do so; and then witness suggested that his regiment should be formed in the rear, across the road, for the purpose of forming one line of a hollow square, for doing which permission was granted by General Hull; that witness then retired, and does not recollect whether he

left other officers with General Hull or not—That the army arrived at the river Huron about the middle of the day on which it left Swan Creek, and found some hands building a bridge across the Huron—that the front halted, and witness's regiment formed in the manner stated to have been agreed to by Gen. Hull.—That some time before the baggage waggons came up, and before the bridge was in a state for passing, witness suggested the propriety of having some victuals cooked; to which the General replied that the bridge would soon be ready for crossing, and he therefore thought it would scarcely be worth while—that it was however late before the bridge was ready, and when it was, the army crossed and encamped in a marshy prairie, on the banks of the Huron—that the troops were late in getting their rations, and in consequence of orders being given to put out fires at 10 o'clock, many of the men were obliged to lie down without supper, which excited much murmuring—that complaints were made to the subalterns, and by them to those of higher rank—that witness himself represented the hardships of the case to Gen. Hull, but the fires were not re-kindled, and the men were ordered to march next morning without breakfast. The troops in advance proceeded so rapidly that the line was frequently broken, and more than a mile long, in consequence of several muddy fords near Brownstown—that witness rode up to Gen. Hull and requested him to halt the front of the line, stating that if the army should be attacked, they never could unite their force—that in consequence of this application the front was halted until the baggage came up, and then the army proceeded along the river until it reached an Indian settlement of two or three houses, when the General halted and the band played a considerable time—that the army marched on some way when a firing of cannon was heard in the direction of Detroit or Sandwich; in consequence of which the march was quickened, and the principal part of the army arrived at Springwells, but the rear guard and baggage did not pass River Rouge—witness thinks this was on the 5th, July—the troops encamped at Springwells, forming one straight line.

The witness proceeding in his evidence, said that he believes

the next day Col. Cass was sent to Malden with a flag of truce, and on the succeeding day, as witness thinks, returned with the same in a boat, in company with a man said to be a British officer of the navy, and a boats crew of about half a dozen---that these men passed at discretion by witness's regiment, without being blindfolded---that after remaining some time, the British officer returned and halted in front of witness's regiment and enquired where the rest of his crew were, and was informed they were down the lines; he then ordered the others to go in search of them, and during their absence continued walking backwards and forwards in front of witness's regiment, and could take a full view of the whole encampment---that witness stated at the first in as moderate terms as he could, his displeasure and disgust, at seeing the British officers indulged so much, and that General Hull replied in a good natured easy way, that "it was not material, as the more they saw of his force, the less they would like it," or words to that effect---that, soon after this, the General directed the witness, and he presumes other commanders of regiments, to put the troops in the best possible order for marching them to Detroit, and they were accordingly marched to that place along the river, leaving their baggage at Springwells---that this march was performed late in the evening, when they immediately returned to Springwells, without halting, very late, and the men much fatigued---That General Hull remained at Detroit, consequently the command was supposed to have devolved upon the witness---that witness is not certain whether it was on that night; but one night, when the troops were at Springwells and General Hull was at Detroit, the army heard as was thought, the movements of the enemy on the opposite shore, transporting heavy carriages, supposed to be artillery; upon which this witness despatched a messenger to General Hull informing him of the impression---after some time had elapsed the enemy were heard to cry 'all's well' on the opposite side---the witness does not recollect who was sent with the message, which was a verbal one, but heard nothing in reply from the first messenger---that, after hearing the cries of these sentinels and ascertaining, as was supposed, the number to be five, it was concluded by the witness, Col,

Findlay and Major Jessup that the enemy had formed an encampment on the opposite side---Witness thinks he sent quarter-master General Taylor and, he believes, Major Jessup to inform General Hull of the result of their observations, and with a request that he would send down some boats, or have them collected, and direct at what point they might be found.

Gen. M^cArthur was proceeding to state more particularly the information which quarter-master Taylor was instructed to give G. Hull respecting an enemy's detachment being on the opposite side of the river, and also that permission was requested to cut them off, when the prisoner addressed the Court in the following words: "I beg that the J. Advocate may state under what specification the testimony now given is offered, and if it be not specified, under which of the charges it is, I object to it. I cannot be prepared to defend myself against charges which have not been exhibited. I pray that this objection may be considered as extending to all the testimony General M^cArthur has given relative to the visit of the British officer, as well as to that he is now giving relative to the appearance of a British force while the army was at Springwells: and I pray that this objection may be entered on the minutes."---Whereupon the Judge Advocate waived for the present the farther examination of General M^cArthur on the points objected to.

General M^cArthur, then continuing his narrative, said that he thought, and still thinks, the landing place at Springwells the best and most commanding place for a battery on Detroit river---one could have been erected there by a few hands in a few hours---such a battery would have commanded the plain within cannon reach---there was none erected from the 11th to the 16th of August, nor at any other time---that when the army marched from Springwells to Detroit, it took a back route, which General Hull stated was for the sake of preventing the enemy from ascertaining his numbers, and for concealing his movements from Springwells---that the army encamped at the back of Detroit, and continued, he believes, till the morning of the 12th July, when it crossed the river in boats, in two divisions---the 4th Reg. and Col. Cass's formed the first division, witness's regiment

and that of Col. Findlay's were in the second division---he believes there were not boats sufficient to transport the whole army at one time---that after landing, on the opposite shore nearly opposite Detroit, the expectations of the witness were that the army would have proceeded on towards Malden; it was however ordered to encamp, which was done; and in that place the main body of the army remained until it recrossed to Detroit.

The witness then continued to state as follows---That on the day after the army crossed the river, orders were given by General Hull to throw up an entrenchment round the encampment, which was done---(that when the army arrived there, there was a picket fence on the upper and lower side of the encampment; one also on the rear, but which not suiting the views of General Hull, was removed and placed on the bank side of the encampment. That on the evening of the 13th, as witness thinks, after the bank had been thrown up, and after the troops had lain down and taken their first nap, General Hull sent for witness and told him he had received information from some dragoons that a party of Indians had been at Malden and were seen returning up the Detroit river towards the river Thames, and directed witness to call out 100 or 120 men of his regiment to be joined by some from Col. Findlays, with whom he was ordered to march at a moment's warning and without provisions---at the same time General Hull expressed a wish that witness should take and secure some flour which was on the river Thames---That the detachment marched about seven or eight miles, when the men lay down to rest and conceal themselves 'till day light, being without provisions---that the next morning they continued their rout until they were about twenty miles distant from General Hull's camp, and then halted, cooked a cow and bought some flour---on their march they saw some Indians, all of whom escaped, except a squaw and three children---that the detachment then proceeded up the Thames, procured a considerable quantity of flour and a number of boats and canoes, and brought them to the main body.

General M'Arthur then said that about the time of his return to Camp from the expedition just described, Col. Cass

and Miller were returning from river Aux Canards---that on the next day, as he thinks, Col. Findlay was ordered with his detachment to the same river, and, on the day succeeding, another detachment was ordered down under the command of Capt. Snelling ; perhaps on the third day after his return, witness was ordered down to the river Aux Canards, with part of his regiment, with a view to ascertain whether the Queen Charlotte could reach the bridge with her shot---that witness ascertained pretty well that she was not in a position to do so---that he met Capt. Snelling that morning, who said he had been at the bridge---that witness's detachment fired at long shot at some Indians, who were approaching the bridge, which circumstance drew out some troops from Malden---50 or 60 men wearing red coats, some militia and about 50 Indians, who were fired at across the river---that fires were exchanged across the river Aux Canards, and one or two of our men were wounded---that some guns were at the same time fired from the Queen Charlotte, but whether with any, or what effect, witness cannot say.

The Court adjourned until to morrow.

14th day, Thursday, February 3d, 1814.

The Court met pursuant to adjournment, when Brig. General M'Arthur continued his narrative as follows--- That when witness was returning he met Col. Cass also returning, and understood that the Indians were killing some of the inhabitants on the Petit Cot settlement. That witness then returned with Col. Cass and found the information to be incorrect---that he does not recollect any other detachment having been sent down to river Aux Canards, but one under Major Dennie, nine days after witness had returned, which was defeated by the enemy and returned to the camp the next morning---that frequent calls of officers commanding regiments were made by General Hull, respecting measures to be pursued, at least, upon an average, once a day, while the army was on the Canada side ; at which meetings General Hull was frequently urged to move on to river Aux Canards, or down to Malden---witness thinks General Hull said he

only waited to have some cannon mounted to make a breach in the enemy's works at Malden. That about the time witness returned from river Thames, or French, the General stated that he supposed cannon would be ready in a few days—sometimes he said in two days, sometimes in four, at others in a week, and so on—plans were frequently proposed for taking down the cannon (24 pr.) to river Aux Canards—three floating batteries were commenced, two completed, but witness does not recollect whether before or after the fall of Mackanac—that the opinions of the Gen. and of the field officers were frequently taken in the councils, and that Gen. Hull declared that he apprehended that the fall of Macanac would induce many Indians to descend the lakes, or to shower in from the upper lakes—He thinks it was at that time that General Hull proposed to erect a picket fort on the Canada side; but the officers thought, and it was urged by them to General Hull, that it would be more adviseable to make an immediate attempt upon Malden than to delay a long time to erect the fort; and they frequently stated to him that there could be no doubt of success, as there was frequent information, by deserters, of the enemy's force at Malden, as well as concurrent reports of the militia, some of whom said that the regular force of the British did not exceed two hundred, others stated two hundred and twenty—these militia could never give the exact amount of the Indian force, but supposed that for the first fortnight it was from fifty to one hundred—they also stated that, at the time of General Hull's crossing to Canada, the militia force was about five or six hundred, but that they were daily deserting, and there was no doubt, but that they would leave Malden upon the first appearance of our army—Commanding officers were called upon by General Hull to accompany him to select a spot for erecting a picket fort—several were proposed by field officers, but were not approved of by General Hull—at length a place was fixed on, by advice of Major (then Lieut) Anderson as the General stated; but, in the witnesses opinion, one of the most unmilitary spots for a fort on the river, so far as he had travelled—that wit-

ness told General Hull that the place was incapable of being well fortified, pointed out to him that a man standing at a certain distance (about one hundred yards) could overlook the picket and the fort, so as to see a man's feet while upright in the fort, and told him that he himself could fight a whole garrison from that place. That some days after the fall of Mackinac was reported in camp, commanding officers were convened, when General Hull stated that every thing (meaning floating batteries &c.) would be ready in a few days, and that the object of calling them together was to consult whether it was best to wait a few days for the heavy cannon, or make an attack on Malden, or return to Detroit, leaving a small garrison at the work about to be erected--that, as witness believes, the officers were unanimously opposed to recrossing, and some were of opinion that we should attack Malden immediately without heavy guns--that, at a counsel of officers, it was stated by two Artillery officers, that between Forkey river and that of Aux Canards it was marshy, and that near Malden heavy guns could not be worked without a platform--that another council of field officers was held, when General Hull stated that he was about to send off Major Van Horne with a detachment to river Raisin, the amount of which witness does not recollect, but believes to have been about two hundred men--that witness stated to General Hull that the number was too small, and that they would inevitably be defeated; on which the General appealed to the other field officers present, who agreed with the witness that the number was insufficient--each commander, (that is, Col. Findlay, Col. Cass and the witness)--proposed taking his own regiment, which would then have formed about double the force of the proposed detachment--Major Van Horne was however, detached. Witness well remembers, after Major Van Horne left the camp, his (witness) going to General Hull and telling him what he thought of Major Vanhorne's danger, and recommending his sending a farther force to join him that night; when the General replied that Major Vanhorne was sent by a back route. Witness then told General Hull, that he had been informed by a couple of Frenchmen that there were no back roads that they knew of, and that the

country was intersected with marshy prairies from below the river Aux Canards; and he again requested General Hull to send a farther force to join Major Vanhorne, but the General paid little attention, and replied there was no fear, he would do very well.

Brigadier General M'Arthur then stated, that he was afterwards sent for by General Hull, who said he intended to leave the witness with his regiment to occupy the picket fort which he so cordially despised, and that he himself, with the residue of the army would return to Detroit---that on this, witness became warm, and in his reply to the General stated the hardship of his regiment being left to be sacrificed to the enemy, and said that if it were his order, he would obey it, but thought it would be better to have a force detailed---that witness stated, and it was admitted by the General that the work could not be defended against cannon, but only against small arms, and there was no doubt that the British would bring cannon---he recollects telling the prisoner that he thought the leaving a detachment there could only produce disgrace to the officer, though it might cover his own disgrace in recrossing to Detroit; upon which General Hull made in reply an insinuation of cowardice in the witness, who became warm and felt much hurt by the insinuation, and said that if General Hull would advance to Malden, he would prove that he could go as far as the General or any of his friends could go or would dare to go---that witness then retired, and in about an hour after, an orderly came to desire witness to repair to General Hull's quarters, where he was met by the other commanders of regiments; on which occasion General Hull stated that he had called them together for the purpose of adopting their opinions as his own---that as the officers, including his own son and his son-in-law differed in opinion from him, respecting the re-crossing the river, he would move against Malden at the head of his troops, "and," said he, "in whatever manner the affair may terminate, I never will reflect upon you, gentlemen."---Immediately after which an order was issued to prepare for an attack upon Malden---witness thinks this was on the day before the army re-crossed---The

determination was communicated to the platoon officers, and by them to the troops, who appeared highly pleased at the confident expectation entertained of attacking the enemy—These preparations were continued until about the middle of the next day, when General Hull again sent for the field officers, and stated to them, that notwithstanding the respect he had for their opinions, he considered himself responsible for the movements and the ultimate fate of that army, and that he had come to a determination to re-cross the river, for the protection of the fort and town of Detroit, to which witness replied, “ Well, General, if it is your opinion, it must be so, but I must beg leave to decline giving any further opinion as to the movements of the army.”—Upon the promulgation of this order to the men, they appeared dispirited and dejected, and seemed regardless of what they did—The army recrossed according to order and took post at the back of the town of Detroit.

The witness then proceeded to state that, as he thinks, on the day the army recrossed, Col. Miller was despatched (as before stated) to open a communication with the River Raisin, and that on the evening of the 9th July, witness was sent for by General Hull who acquainted him of the battle of Col. Miller's detachment at Brownstown, and ordered witness to collect the boats and proceed with one hundred men to bring back the wounded, but to call first at the commissary's stores and draw one day's provisions for Col. Miller's detachment, which was out of provisions--that the witness was detained three or four hours in procuring the provisions, in which time he met with Col. Godfrey, of the Michigan militia, who appeared to know the business on which witness was going, and who told witness that he might go, but it would be impossible for him to return with his detachment on the river; and Col. Godefrey was therefore desired by the witness to come down with some waggons, which he did--witness then proceeded on the service ordered, effected the objects, returned as far as he could by water, and then took the waggons brought by Col. Godefrey to transport them to Detroit--during part of the time, the enemy's ships were firing grape and other shot upon the

detachment. That on his return to Detroit, witness was informed that there was some ordnance transporting by the British on the opposite side, which he in part saw, and that there were four men in red coats---this matter he communicated to General Hull, who replied, as witness thinks, that he had heard of it---that witness asked if he knew where the artillery stopped, but the General did not know---witness expected that if he did know, they could have been dislodged by our batteries. That, an hour or two after this, G. Hull sent for the witness and informed him that intelligence had arrived that some of the enemy had landed at Hog-Island, and directed witness to proceed with some of his dragoons and endeavour to ascertain the fact---witness did so, and distinguished by means of a spy-glass, a bright bay horse, but heard that no British had crossed to the Island--that after proceeding several miles up the river, witness returned, and on his return saw fifteen or twenty men with red coats, on the opposite side of the river, employed in digging---this witness thinks was on the morning of the 14th August, and the men were at the same place where the enemy had been erecting a battery previous to the American army's crossing to Canada. That about the middle of that day General Hull sent for the witness, and stated that he had received a letter from Capt. Brush, dated at River Raisin, where he had arrived on his way to Detroit, whither he meant to proceed by a back route; in which letter Capt. Brush, expressed a wish for a detachment to meet him---that, soon after witness had returned to Camp, an order was issued for him and Col. Cass to send one hundred and fifty men from each of their respective regiments, making 300 men, and to proceed upon that service---that in the afternoon General Hull asked the witness if he was ready to march; witness replied he was, but, as usual, without a bit of any thing to eat---General Hull said, "The detachment must not be detained. Go on, provisions will be sent by men well acquainted with the roads you are to take." The detachment was directed to proceed to a certain point and wait for guides, which it did---the guides came, and old Col. Godefrey was one of them.

Question by the Court---Was it usual, when General orders were issued for sending out detachments, that those orders directed a supply of rations for any number of days?

A. None, when I was ordered on detachment.

General M'Arthur proceeded with his narrative, stating that the detachment after halting that night, proceeded on their march on the morning of the 15th, having on the preceding evening gone 24 miles from Detroit, and that many of the men were quite exhausted---that the guides were mounted, and they had five or six dragoons, some of whom were despatched to the river Huron as far as Godefrey's trading house, unless they should meet Capt. Brush, in which case they were to return with the information---they returned in the evening, not having seen any thing but Indian traits---On this a consultation was held with the officers, who considered it useless to proceed---they had heard nothing of the provisions which were to be sent after them. That the detachment then commenced their return, and after travelling half a mile towards Detroit, met some mounted men with a note from General Hull, the substance of which was that General Brock was on the opposite side of the river and had summoned the town to surrender, and ordering the detachment to return as soon as possible---one man proceeded according to orders to river Raisin. Witness then said that during the march of the detachment on its return, the rear could not keep up, and two men were put on each horse, in order to relieve them---that at night the men were permitted to lie down, and the officers stood centinels---that on the morning of the 16th, they resumed their march, and, shortly after leaving their encampment, heard the firing of cannon, which occasioned them to hasten their march until they crossed the river Rouge---when they reached the spot of encampment on the first night from Detroit, the men were halted for refreshment, and three or four mounted dragoons (one a Frenchman) were despatched to ascertain what was the occasion of the firing---that the march was then resumed and continued until within three or four miles of Detroit, when some of the dragoons first despatched were met, who gave information that they had seen forty or fifty

Indians at the back of Detroit catching horses and killing cattle, and that they had seen some person who informed them that the fort had surrendered; they said however that the American flag was still flying at the fort—that the detachment was then drawn up in line of battle; that they soon heard that General Hull had agreed to surrender the fort; and that the American colours would be hauled down at 12 o'clock.

General M'Arthur said, that, on receiving this intelligence, it was determined to make a retrograde movement of about three and a half miles on the river Rouge, about the mouth of mill creek, where an ox was killed, roasted and eaten by the men without bread or salt, being their first meal since they left Detroit, excepting some green corn. That a council of officers was held, in which some proposed a farther retreat, while others thought that by such a measure they would immediately fall a sacrifice to the Indians; and finally it was resolved to send Capt. Mansfield with a flag to ascertain what terms were or could be made for our detachment, with a perfect understanding of the sentiments of the officers of the detachment, and with instructions to return—that a short time after captain Mansfield's departure, captain Elliot came with some Indians and a flag, and delivered a note from General Hull addressed to the witness—he also brought the articles of capitulation—Some other British officer came with some of those who accompanied captain Mansfield—captain Elliot stated that he was going on to captain Brush to inform him, and obtained a few lines from witness to him, written on the back of General Hull's letter—that the detachment then marched into Detroit, accompanied by Major's Dixon and Erbb of the Indian department—that with respect to the ammunition in fort Detroit, he recollects seeing a great many cannon balls passing about the fort, and he thinks he saw about 40 casks of powder, of about 100 lbs. each—he heard of no scarcity—the general calculation was that there were provisions for about 25 days for the army—that is public provision, independent of other provisions in the power of the army.

Here General M'Arthur's narrative was concluded, when he was examined by the members of the Court.

Q. How many men could your boats take over at a time?

A. More than one thousand.

Q. What was the strength of your regiment, on the 14th August, in the morning?

A. About five hundred effective.

Q. What was the number of provincial militia on the Canada side?

A. One or two hundred.

The Court then adjourned to the next day.

15th day, Friday 4th February, 1814.

The Court opened as usual, all the members being present, when Brigadier General M^rArthur was cross-examined by the prisoner.

Q. Were you with the army at Stanton?

A. I was.

Q. Was not the army ordered out for the purpose of manœuvring?

A. My regiment was every day, I think, that we were there—the three regiments were one day out together and marched to the other end of the town.

Q. Did they not pass me in review?

A. I do not recollect. I think I saw General Hull out in the street as we passed up and down.

Q. Did not the whole army turn out to receive the 4th regiment on its approach to Urbana, and was it not reviewed by General Hull in company with Governor Meigs.

A. I recollect seeing the General and Governor with some musicians in the street on the left, to whom the ordinary salutes were paid.

Q. Was not the whole army marched out of Urbana in a body for exercise?

A. To my recollection, they turned out for General Hull and Governor Meigs.

Q. Was not General Hull in command of the army at that time?

A. I believe the command was transferred to him at Dayton by Governor Meigs.

Q. Do you not recollect my passing the army in review, and returning in consequence of a storm?

A. I do not recollect, but think it possible.

Q. When the army had crossed the Miami, as you have stated in your direct examination, did they not pass me in review at the village?

A. I think I observed General Hull standing with a band of music, about thirty yards on the left of the road---I recollect being called by General Hull to take command of the army, as he was going to stay sometime in the town.

Q. Did not the army in passing the General salute him, as is usual at reviews?

A. It is probable that the army saluted, but not as is usual at reviews, as the general was not situated as is usual at reviews.

Q. Did you salute the general as you passed?

A. I think I did, but am not certain, as he was rather at a distance; possibly I did.

Q. Were the men mustered on the last day of June, by my orders?

A. I do not know whether it was by the general's orders that the men were mustered on that day, or whether it was in consequence of the standing custom to muster the men on the last day of every month, for the purpose of drawing pay. The general may have issued the order.

Q. You have stated that in passing the settlement of the river Raisin the troops went through the usual parade. Was that done by my orders, and did not the troops pass me in review?

A. I think it was, and to the general surprise and dissatisfaction of every officer I conversed with on the subject. I think the general *was* passed in review---This was after the declaration of war.

Q. Was not the camp at Swan Creek fortified; and if so, was not that done by my orders?

A. It was usual to fortify the camp by falling trees around it; a manner adopted by General Wayne, suggested and insisted upon by the commanding officers of regiments to General Hull, at the commencement of the march. I do not recollect any particular orders, but the camp was so fortified on that night.

Q. Did General Hull make any objection to the mode of fortification ?

A. I do not recollect that he did.

Q. Was the paper now shewn to you an order of battle at any time and when agreed upon ?

A. It looks like the order of march, but is not that of battle—Here the witness stated that on his direct examination he did not recollect that any order of battle had been agreed upon, at the time he alludes to, at Swan Creek ; but that upon subsequent reflection and conversation with some of the officers, he now recollects that, at the time, in addition to permission being given him to form his regiment as mentioned, an order of battle was suggested and agreed upon by the officers. This was on the evening after he obtained permission—but he does not recollect if General Hull was consulted or not.

Q. Did General Cass accompany the British officer to General Hull's quarters after landing near Spring Wells ?

A. Some time, perhaps an hour, after the boat arrived at the shore I saw the officer go to general Hull's quarters and General Cass with him, having first passed by in the boat.

Q. Do you know that I had any information that the British sailors were about the camp, in the manner you have mentioned ?

A. I do not know that the General had any information, any more than seeing them pass about his own quarters.

Q. Did you send me any such information ?

A. I did not know there were any more than those seen about the General's quarters until I heard more enquired for. I did not send any information to the General.

Q. You have stated that on the 14th August, the British fortified opposite Detroit. Will you state the situation of the fortifications they erected in relation to the works in which Major Dennie was left, when the army returned from Canada ?

A. The place where the British were at work was about one hundred yards above the place where we encamped when on the Canada side, and about half a mile from the works where Major Dennie was left when the main body of the army crossed the river on the 1st, July.

Q. Whether was there any other information received of a declaration of war, excepting what was received at Findlay's block house?

A. I do not recollect any other.

Q. Was I not always at the head of the army in passing through the wilderness?

A. I believe you were.

Q. When I had occasion to be absent, did I not give information to you, as second in command, to take the command of the army?

A. On the march I believe you did.

Q. Was I not at all times during the march, while with the army, in a situation to have ordered a disposition of the troops in case of an attack.

A. I cannot say, as I was in the rear, and understood General Hull to have been in the front.

Q. Was not the order of march reversed sometimes; which brought your regiment in front?

A. I do not remember its being so reversed, until the 4th Regiment joined us at Urbana---before that time my regiment marched in front.

Q. (By a member of the Court.) Did not General Hull arrest or threaten to arrest you, when you told him his object was to disgrace the officer detached to remain at Sandwich, to cover his own disgrace?

A. I did not hear any thing of an arrest, but confess I expected one.

Q. Had you any orders to permit the British officer to review your regiment: if not, why did you permit it?

A. I had no such orders. The officer on his return from the General's quarters was accompanied, I believe, by Capt. Hickman, the General's son in law. They stopped in front of my regiment.

The Court adjourned till the next day.

16th day, Saturday, 5th February, 1814.

The Court met pursuant to adjournment, when, all the members and the prisoner being present, *Brig. General*

Lewis Cass was again called, and was proceeding on his direct examination, when an objection was stated by the prisoner, and the examination of Brigadier General Cass was for the present waived by the Judge Advocate, as the introduction of the British officer into the camp near Springwells was not contained in the specifications of charges against the prisoner.

Lt. Col. Thomas B. Vanhorne, of the 26th U. S. Infantry was then sworn, and said that he belonged to the North western army, under Brigadier General Hull; that he joined the army at Cincinnati on the 25th April, 1812; was a major in Colonel Findlay's regiment in the May following; and continued with the army until the capitulation--that he was twice on detachments when at Urbana; and was a member of the first general council of field officers, commandants of corps, the quarter-master General and the Brigade major, held in Canada about the 1st August--that when the Council was assembled, General Hull addressed them from a written paper which he held in his hand--the witness does not recollect the reasons for calling the council, excepting the situation of the army and the expectation of a great Indian force to descend from the north--he does not recollect any force at the river Raisin--he says that the General expressed his wish to keep open the communication with Ohio--that the officers differed in opinion from the General, as to the measures he was about to pursue; as it would be necessary to recross the river with the whole or part of the army to Detroit, and to take positions with the army on the road to the river Raisin, and to build blockhouses at Brownstown--that the river Raisin, the Rapids and Brownstown were three of the points that were mentioned--there had been a block-house built a few miles from Detroit and between it and the Rapids--witness says that G. M'Arthur was of opinion that the army had better attack Malden immediately, in which opinion the officers generally concurred--It was thought that notwithstanding the Block-houses the Indians would still cut off our supplies, a descent on Malden seemed to be generally determined upon in the Council; and the General appeared to relinquish his own plan and to fall in with the general opinion--that a question

then arose whether the army should proceed to make a descent directly on Malden, or wait two or three days for the heavy artillery already mentioned---that votes were taken, commencing with the youngest officer, and all taken except one---G. Hull, who had taken the names, rose from his seat and appeared pleased that there was a majority of officers in favour of waiting for the artillery---that witness, who kept a minute of the votes, observed to the General that the question was not decided, and that the votes were equal---Gen. Hull appeared then to count the votes, and said again that there was a majority in favour of waiting for artillery---witness again observed that there must be a mistake, as there was not a majority in favour of that--that the General then applied to Mr. Wallace, who was sitting on his left, and while that gentleman was counting the votes, General Hull observed that he had not taken the opinion of Quartermaster-general Taylor, and apologized to him for the omission---witness says that there was then a majority for waiting for the artillery. Lt. Col. Vanhorne then said that on the 4th August, he was detached with 150 riflemen and a number of militia-men who had refused to cross into Canada to meet Captain Bush on the river Raisin, coming with provisions. The instructions from General Hull to major Vanhorne were then read, dated Sandwich, 4th August, 1812, (marked G. Vanbeuren) also the General orders of the same date, from Detroit, (marked H) Lt. Col. Vanhorne then proceeded to state that pursuant to those instructions, he crossed the river to Detroit, that night, with the riflemen, and collected the militia who were to go---that when General Hull gave those instructions to him, he told the witness that although those instructions were written ones, if he found it necessary he might deviate from them---this was said, as witness believes, in presence of General Cass and Captain Hickman or Captain Hull---witness says that he proceeded with the detachment, crossed the bridge over river Ecories and proceeded about eleven miles; then posted his centinels and allowed his men to lie down to rest---that about day light he called the men together, having no music, and directed them to cook some provisions, while he himself went to the settlement in order

to find out the back route mentioned in his instructions, awoke the people collected all the male inhabitants, and enquired concerning the back road, when they declared they had never heard of such a road--that he then asked if one or two of them could not guide him through the woods--one of them answered that if the sun were to shine all day, he thought he might, but otherwise he might lose his course; that the country was very swampy and he thought it would be impossible to get through--that witness then sent one of those men off to General Hull at Detroit, to say, that in consequence of not finding any back road, as stated in his instructions, he would take the Brownstown road, where the General might direct the mail to follow--that while on the march he received the letter marked J.--he does not recollect whether he received it at Detroit or on the morning after, but it is in the hand writing of General Hull--that witness sent back a few men who were unable to march, and proceeded on his way, intending to make the river Raisin, and had advanced about three miles, when Capt. M'Culloch and witness's waiter were fired upon by a party of Indians, about seven in number, the former was killed--Captain M'Culloch was acting as a spy and moving about.

Q. (*By the Court.*) Had you no flanking guards?

A. There were no flanking guards--the fire took place after the detachment had passed on the road.

Witness then said that he formed his detachment into a single line, and ordered them to encircle the ground where they had just heard the firing--the left of the detachment wrenched up the corner of a fence when it received another fire from those Indians; none of the Indians were killed upon the return of the fire, but one of Captain Rostan's company was killed--witness then formed the musketry under Captain Gilchrist--moved up the remainder of the detachment and formed three sides of a hollow square, leaving the rear open while the men went to bring up the dead bodies--that about this time witness was informed that the mail was near at hand, and wished witness to wait and give it escort--that this was about 9 o'clock in the morning--that having no tools to dig graves, witness had the bodies of the slain covered with a

Indian bark and lodged near a tree---witness says that about this time the Captain, in front reported that he saw about thirty Indians, who made off upon discovering the detachment, upon which witness called the officers together, and gave directions that the orders of Captain Lewis and of Ensign Hawkswel should be obeyed as his own---that the troops were then formed, an advanced guard sent under Ensign Rolly and a rear guard under Captain Bostler---that the detachment marched in two columns in files, about thirty yards on each side of the road---that the advanced guard marched in files in two columns, and had three mounted men at the head of each column---that Captain Bostler being unwell, witness had lent his horse to him, but being apprehensive of an attack, took it back and cautioned the men to be prepared for action; that the detachment was then near Brownstown-creek; that they marched about three hundred yards, and when the advanced guard got to the edge of the creek and in a prairie, the detachment was attacked by a body of Indians who could not be seen, and whose yells only were heard: that on the first attack the Indians left behind them a small trunk and a few blankets: witness says that on this second attack being made, he ordered the detachment to retire to the edge of the wood and there form the line, as it consisted principally of riflemen---that from the number of guns discharged he supposed the enemy to be more numerous than the detachment---that it was considered that a charge would have been ineffectual, as the enemy could not be seen---that Captain Bostler was wounded in the head---that witness endeavoured to form the line, our troops constantly firing as they retreated---that the mounted men escorting the mail as well as the others went off into the woods, rendering no assistance---that witness could not get the men formed until they had retreated a quarter of a mile---that they then kept up a handsome fire for about five minutes, when the fire of the Indians totally ceased. Witness says that, seeing a copse of trees appearing in the prairie like an Island, he ordered a second retreat, and the line to be formed at the head of the Island; but that, not having any assistance from the mounted men, he could not

form the detachment: they retreated in disorder by squads. Witness says that at the first fire Captain Lucar's horse was shot—that the loss was eighteen killed and twelve wounded, and about seventy missing—that he supposes the Indian's force was from one hundred and fifty to two hundred men—that, at the time Captain M'Culloch was killed, he heard that boats had been passing all night, and it was from that concluded that about three hundred Indians must have crossed—witness then said that on his return he met Captain Snelling's detachment at Springwells, who came, as he said, to cover witness's retreat—that he reached Detroit on the evening of the 5th, when most of the missing men returned to Camp; and that on the same evening he reported himself and his command to General Hull.

Major Vanhorne, continuing his evidence, said that he never was at more than two or three Councils, and having heard the statements of Generals M'Arthur and Cass, does not recollect any thing in addition to what they said, excepting that on the morning of the 16th of August, Colonel Findlay received a verbal order by Captain Hull to form his regiment in line, in advance, and South west of Fort Detroit, in the rear of the picket fence, with Col. Cass's regiment on the right and Major Dennie on the left, with a company of thirty waggoners and some citizens; and that the whole force on the line amounted to between eight and nine hundred, but what the force of the Michigan militia was he could not say—that the picket fence was about seven feet high, and completely covered the men—that about an hour before the white flag was hoisted, and when the men were formed in this manner, General Hull came out during the cannonade and appeared satisfied with our position—it was then understood that the British had crossed the river—General Hull staid from three to five minutes—witness says that he saw the Indians at three quarters of a mile distance, and General Brock with some British officers on horseback communicating with them—that after this, major Snelling came out to the line and asked for Col. Findlay; the cannonading had then ceased, and witness then, for the first time, saw the white flag on the fort--

order by squads. near's horse was twelve wounded, es the Indian's hundred men— d, he heard that from that con- have crossed— ptain Snelling's e said, to cover n the evening of d to Camp; and elf and his com-

e, said that he ils, and having and Cass, does ey said, except- t, Colonel Find- to form his reg- Fort Detroit, in regiment on the mpany of thirty hole force on the ed, but what the ot say—that the mpletely cover- white flag was in this manner, le and appeared stood that the staid from three the Indians: at eral Brock with ting with them-- he line and ask- hen ceased, and flag on the fort--

that Major Snelling addressed himself to witness, saying, "where is Col. Findlay?" and that Col. Findlay's regiment must retire into the fort; that a flag was out and must not be violated—that Col. Findlay did not appear satisfied at this order but said it must be obeyed; and then ordered witness to march his battalion into the fort and stack arms, which was done. Witness is not certain whether or not General Hull was in the fort when he went in—he thinks Lieut. Hunt told him, as he was going in, that G. Hull had surrendered. He says that Gen. Hull desired witness and several other officers to come into a room, where he told them that he had surrendered the town and fort of Detroit, and was about making terms; and asked if they thought of or wished for any conditions—witness thinks he saw General Hull near the door of one of the rooms in the same situation that Major Snelling stated, and, from his whole appearance, was immediately impressed with the idea that he was under the influence of fear; and, at the time, communicated his thoughts to some of the other officers. Witness says that some time after General Hull invited the officers into the room, he saw Col. McDonald and Captain Glegg ride up to the fort and come into the room, but he does not know if Gen. Hull was in a marquee or not, or where the terms of capitulation were made or agreed upon—he says that the fort was very much crowded. Witness further says that about the 20th or 25th July, he was officer of the day, and when, as was customary he called on Gen. Hull for orders, he, General Hull, estimated the regular force at Malden at about two hundred, and that of the militia to have been originally about five hundred; but said that, from the best information he could obtain, it was then reduced to about two hundred and fifty, and that they were leaving them daily—the Indian force he at the same time computed at about three hundred.

Q. (By a member of the Court.) What was the appearance of General Hull at the time he rode out to your detachment, after the enemy had crossed. Was it firm and animating?

A. I think not.

CROSS-EXAMINED BY GENERAL HULL.

Q. Had you not an authority to take a larger force from the troops at Detroit, on the 4th August, than you did take?

A. I think I had, I was authorized to take a company--- Capt. Gilchrist's Lieut. Pentz's, and Ensign Baker's men--- Capt. Gilchrist was at Sandwich when I took the command and received my instructions: I desired him to cross and draw rations—he had some difficulty in procuring them; took bread and went without the rest—Captain Gilchrist's company having been sent the day before was much fatigued; I therefore took only thirty five men, and on the next day was obliged to send back five or six, on account of their being lame and unable to march. I did not think it necessary to report this to General Hull. We never counted on having more than two thirds of the companies when ordered out upon detachments by companies, detachments and regiments.

☞ Colonel Vanhorne corrected this by assigning a reason why the detachments could not be more complete.

Q. Had not the commanding officer at Detroit orders to place under your command all the militia who had refused to cross over to Canada?

A. I do not know for certainty, but presume not, as only three platoon officers were ordered.

Q. Had you not an order to take all the riflemen of the army?

A. I had; and did take all those of my own battalion, fit for duty, and those that were paraded by adjutants of corps.

Q. (To Generals M^rArthur and Cass, as well as to Col. Vanhorne)---What was the force under Major Vanhorne?

A. (By the same.) The whole force under Major Vanhorne was estimated at two hundred---It was a subject of much conversation at the time, and with General Hull, that the number detached was not sufficient.

Q. How many troops were there with the mail?

A. About 18 or 20 mounted men.

Q. Before you were attacked at Brownstown, had you sent any of your spies or reconnoitering parties forward?

A. I did not, because I thought it would not do to take up

so much time as to reconnoitre at every crevice or creek, having to return the next night, making the best dispositions in my power.

Q. At the time I came to Col. Findlay's regiment on the morning of the 16th, did I not go to the other forces stationed near you?

A. It is probable; I did not see you.

Q. How long was it after you stated to Captain Bostler that you might be attacked in a short distance, that you were actually attacked.

A. I cannot say exactly as to the time, but think it was about half an hour---we had marched about a quarter of a mile.

Q. Do you not know that on the 15th and the following night, I had undergone great fatigue: and among those indications of fear which you observed, did you observe any indications of fatigue, care and anxiety or of either of them?

A. I do not know. General Hull was on the ground once, about 12 o'clock at night, where we (Colonel Findlay's regiment) were posted, and, I believe, once on the next morning, when the men were cooking their breakfast, and another time at the picket fence---General Hull was on horseback---He appeared dull, heavy, dispirited, and without animation---I have no doubt his anxiety added to this appearance. We had all been fatigued; but, on comparing faces with other officers, there was an evident difference.

The Court adjourned to Monday next.

17th day, Monday, 7th February, 1814.

The Court met pursuant to adjournment---all the members were present---Lt. Col. Vanhorne appeared, heard the evidence read to him, and made some alterations; upon which the Court was cleared to discuss the subject, as also to consider the propriety of putting a question to General Cass concerning the introduction of a British officer into the Camp at Springwells---The following was the question submitted to the Court, to be put to General Cass---“By whose order he (General Cass) introduced the British officer into the

American camp at Springwells?—State particularly the circumstances attending it.”—It was decided that the question be put to General Cass—The objection made by the prisoner, to the alteration of evidence once taken, was in the following words: “The testimony is read over to the witness as I conceive, for these purposes—first, for the purpose of ascertaining whether the expressions he used have been written down, and secondly, to allow him to explain himself, if his meaning in any respect should be misunderstood.—If the witness admit; or if the Court should be of opinion, that the words he used have been written, then he ought not to be permitted to change those words. But, if the witness desire to make any explanation of his language, it ought to appear as such upon the record: and, if this rule be not adhered to, a witness may vary his testimony according to impressions he may have received after his first examination. I do not mean to apply the observation to Col. Vanhorne; but the principle may be important as respects the testimony of witnesses who may be called, upon whose veracity there may be less reliance than on Col. Vanhorne’s.”—The Court ordered “that the testimony of every witness shall be read to him on each day, as far as it has proceeded, and be approved by him; and if any corrections take place afterwards they shall appear as such; but, until the testimony is read to him as aforesaid, he shall have the controul of the manner in which his testimony shall be expressed.”

Brigadier General Cass was then called, and, in answer to the question above stated, said—When I returned from Malden, having been there with a flag of truce, I was brought by a Capt. Barwiss a British provincial naval officer, in a boat—Captain Hickman and Lt. Peckham were with me—when I came opposite to Springwells, I thought it improper to take the British officer into our encampment, I therefore intended to have taken him to Detroit, and then to have informed General Hull—I proceeded about a mile, or a mile and a half above Springwells, when I was overtaken by an officer, who I think, was Capt. Hull, and who stated that General Hull was at the Camp at Springwells, and directed me to return

thither—I accordingly returned to Springwells, where, on landing I remained with the British officer, and sent Captain Hickman to General Hull to know if the British officer should be introduced into the encampment—Captain Hickman returned and directed that the officer should be taken to his (the General's) quarters—whither I accordingly took him.

Gen. Cass here stated that on the 12th Inst. Col. Brush stated to witness, Colonel Findlay, Gen. M. Arthur, and, he thinks General Taylor, that General Hull told him that a capitulation would or might be necessary, and that he intended or expected to surrender the fort and town of Detroit, or words to that effect; and it was in consequence of that information that the statement on that subject was made to Gov. Meigs. *This last evidence was given by consent*—Colonel Brush was considered by the officers generally as the most intimate and confidential friend of the General.

Major William A. Kemble of the 26th U. S. Infantry was sworn.

Witness said, that he joined the North-western army in Gen. M. Arthur's reg. on the 9th May, 1812, and continued with it to the 16th August—that on the 30th July he was sent for to attend at Gen. Hull's quarters, when the Gen. stated to him that he proposed sending a detachment to the river French, for the purpose of collecting some flour, grain and cattle, which were there—he said that he did not like the plan of detailing detachments from the whole army, and would wish for some field officer's proceeding on them with his battalion—that witness replied that he was from principle opposed to small detachments; but that, if the General wished to send him, he would go cheerfully and voluntarily command—that Gen. Hull appeared very much pleased, and, after passing some compliments, ordered witness to prepare his battalion for a march, and to get four days provision ready, saying that witness should be accompanied by Capt. Forsyth's company and go by land—that, about the time the detachment was ready to march, witness received a written order from Gen. Hull, directing that part of the detachment should march, and part proceed by boats;

—and that, sometime being necessary to prepare the boats, it was late in the afternoon before the troops were ready to move, when a violent storm arose which would have made it imprudent to proceed; upon reporting which to Gen. Hull he directed witness to wait—that in the mean time there was a rumour in camp, that there was a reinforcement on its way to Malden; witness believes it came from Gen. M'Arthur—that the service witness was ordered on was expected to occupy about six days—that after it was ascertained about the reinforcement to Malden, witness went to Gen. Hull's quarters and communicated to the Gen. the information he had received, and asked him if an attempt would be made upon Malden before he returned, saying that he did not wish to be absent when the army was engaged in so important an enterprise—that the Gen. assured him that it was not his intention that the army should march while he, the witness was absent—that witness then stated, that ten or twelve days would be required for the performance of his duty, and that a British reinforcement might arrive at Malden before the expiration of that time, and that he doubted the propriety of the measure; he also stated to Gen. Hull that he thought that if an immediate attack were made on Malden, the country, with provisions, &c. would fall of course to us—that Gen. Hull, upon this, told him to wait for further orders. But none were given. Witness says that he recollects that, when the first council of officers commanding corps and field officers was called, (in the 1st of August, as he thinks) and when they were assembled, Gen. Hull rose and addressed them from a written paper, and stated the object for which he had called them together. He said that the fall of Mackinac, the want of co-operation from below, on the Niagara, and the information he had received respecting the hostile intentions of the Indians, induced him to ask the advice of the officers as to the course he ought to pursue in the future operations of the army. That the Gen. stated as his opinion that a small garrison should be left at a fort a little above Sandwich, called, sometimes, Fort George, and that the principal part of the army should recross the river and open the communication with Ohio, by establishing posts at Brownstown and

river Raisin--that a desultory conversation took place among the officers, in which Col. Cass and Col. M'Arthur took a principal part, the former recommending that Malden should be taken, as it would be the best way of opening a communication; not only thereby securing a communication with Ohio, but bringing the northern Indians completely in our power; while Col. M'Arthur went more particularly into detail, and endeavoured to demonstrate that if the Gen. should recross the river, it would be impossible for him to communicate with Ohio--that most of the other officers were of the same opinion with those two, excepting Capt. Dyson of the artillery and Capt. Sloane of the cavalry--that Gen. Hull said, "Gentlemen, if you determine to march to Malden, I will march at your head." That a question then arose whether they should move directly against Malden or wait some days for the heavy artillery; on which question there appeared to be a diversity of opinion--that Lt. Col. Miller then proposed a plan for attacking Malden without heavy artillery. This plan was, that a select corps, consisting of about 800 or 1000 men, including the 4th reg. which, from its having been on service, was considered, in proportion to its numbers, as the most efficient part of the army, should be formed--that this corps should be transported in boats, and proceed along the river, in the American channel, in the night, and should land before day on a beach below Malden, and there form two divisions; one of which divisions should march with the field artillery to the river Aux Canards (the enemy having maintained a picket guard there) while the other should march up the river Aux Canards to the place where Colonels M'Arthur and Cass had passed that river before, at the bridge--that the division at the bridge should commence a cannonade, which, it was expected would draw a considerable part of the enemy's force to that quarter, as it had done before; and in the mean time the first division should surprise Malden, if possible; or, if not, should take it by assault. Witness says that this plan was objected to by some of the officers, as being too complicated; and Col. Cass thought it would be best first to determine whether the army should or should not proceed without the heavy artillery--

that witness, in order to be able to form an opinion, asked Gen. Hull for a plan of the fort and the country at Malden, and its force; to which request he replied, with some emphasis, "Sir, it is stronger than Stoney point"—an answer that did not by any means satisfy witness. Witness says that the next question proposed to the council was—"whether the army should proceed to Malden, or wait two or three days for heavy artillery, one gun being ready and the other nearly so?" that upon this question the officers were equally divided, and Gen. Hull decided in the negative, stating a difficulty of transporting cannon from Detroit across to the Canada shore; (the army then being at Sandwich) that witness proposed building floating batteries, one of which was done in five days—that when this was completed, he reported it to General Hull, and was referred to Capt. Dyson and Lt. Daraby—that at the time witness went to make this report he saw Col. Brush at the General's quarters, together with three young men, who had been taken prisoners and confined at Malden, and from whence, they said, they had been released on parole—one of these men was a carpenter, and had worked at Malden—that this man stated (as well as witness recollects) that the British had about 270 regulars, of whom from 200 to 220 were fit for duty, and 150 militia; and as to Indians (of whom the British themselves could not tell the exact amount) he supposed they were from 150 to 300, and could not exceed the latter number—they also stated that when Colonels Cass and Miller had routed the British picket, they were all in confusion and preparing to embark—(this account was confirmed by the other two young men)—witness thinks Gen. Hull asked whether the British had strengthened the fort at Malden, and that the answer was in the negative.

Witness says, that on the 13th August (as he recollects) he was officer of the day at Detroit, waited on General Hull and found him and Col. Bush, sitting on the settee engaged in close conversation, rather low—that the General turned the conversation to provisions, alluding to some wheat which was then hauling in—that Col. Brush asked what quantity of public provisions there was, when the General replied, about a month's, and then asked the Col. whether the country around could not afford a sufficient quantity of provisions for the

army ; to which Col. Brush answered he thought there would be enough for two months—witness also thinks that it was on the 14th August he saw General Hull at Col. M^cArthur's marquee, with Col. Brush and other officers---that witness was about retiring but was called back by General Hull, who invited him to a seat, and asked him (in connexion with the conversation then passing, which was on the subject of the enemy's moving on the other side with their artillery)-- "What would you do"---"Sir," the witness replied, "I would fire upon them"--upon which General Hull said, "But, Sir, about the ammunition! would it be proper to expend it under these circumstances ?

MAJOR TREMBLE CROSS-EXAMINED BY THE PRISONER.

Q. What is your age ?

A. I was 27 years old on the 4th April last.

Q. Do you recollect what portion of officers disapproved of Col. Miller's plan of attack on Malden ?

A. I do not recollect, as no question was taken.

Q. Did Colonels Cass and M^cArthur object ?

A. My impression is that Col. Cass did object, on account of its being very complicated. I cannot say as to Col. M^cArthur.

Q. Was the other 24 pounder brought over from Detroit, and when ?

A. I think it was, on the 6th August.

Adjourned to the next day.

18th day, Tuesday, 8th February, 1814.

The Court met pursuant to adjournment, all the members being present. Captain James Dalliby, of the ordnance department, being sworn said---that he belonged to the North-western army under the command of General Hull in 1812, was at Detroit on the 16th August, and was there previous to the war---went there in 1811, and had never been absent---that he commanded the battery (the uppermost of the three batteries) in the town---he says that the following is an account of the ordnance at Detroit : viz.

9 2½ pounders, 7 mounted 2 unmounted,
 8 12 do iron 4 do 4 do
 5 9 do do 4 do 1 do (as he believes)
 3 6 do brass mounted on travelling carriages.
 2 4 do do do do
 1 3 do do do do
 1 8 1-2 Inch howitzer, brass do do do
 1 5 1-2 do do do do do do
 2 3 1-4 do do do do do do
 8 6 do do Iron on trunk wheel
 carriages in the block house at the upper end of the town.

Witness says that this was the whole of the ordnance excepting two or three small howitzers and swivels which were not reported, and that most of this ordnance, was mounted before the 8th August---witness is of opinion that there were 2500 stand of arms, in the whole, including rifles, for the army---he says that according to the returns made there were at Detroit on the day of the surrender 1400 cannon balls for 2½ pounders, about 1700 for 12 pounders, 1400 for 9 pounders, about 4000 balls for 4 and 6 pounders, about 4800 three pound balls, 290 ten inch shells [not fixt] about 500 eight inch shells, of which 100 were fixt, and about 800 five and a half inch shells, 100 of which were fixed; a large quantity [say 4000] of 2 3-4 inch shells called hand grenades, a considerable number of which were fixed with powder and boxed. There were also, witness said, about 3 1-2 tons of lead, of which a considerable quantity had been run into balls, as much as was considered a sufficient supply for the army; about 1800 fugees in the rough---between 2000 and 3000 priming-tubes, several hundreds of which were fixed for immediate use; about 100,000 flints, 200 rounds of fixed ammunition for the 2½ prs. (as there were 400 rounds on the 14th) about 20 rounds of grape for the 2½ pounders; (about 200 rounds were fired)---as before stated there were 100 rounds fixed for each of the 8 and 5 inch howitzers, about 7 having been fired, leaving the above number---witness says that about 100 rounds for each of the brass 6 pounders were sent over to Canada, of which about 80 for each were expended---that about 50 rounds were prepared for each of the 3 pounders,

and some few for the 4 pounders [say 25 each] that he does not know the quantity of ammunition or rounds of grape and cannister prepared for the 24; 12 and 9 pounders, as, previous to the declaration of war, the fort had been put in a state of defence, in expectation of an attack from the Indians, and, in expectation of one after the declaration, from the British and Indians; and as the ammunition was not deemed necessary for the defence of the place; it remained untouched at the surrender---witness says that there was a large quantity of musket and rifle cartridges prepared, as much as was deemed necessary, but he cannot fix precisely the quantity---he cannot state the exact number of barrels of powder, as a good many had been taken to fix the ammunition---he believes there were about 100 casks remaining marked from 100 to 112 lbs; that is, including fixed and unfixed, about 10,000 lbs. He does not know exactly. He says that on the 7th or 8th August every thing was reported to be complete for service witness had charge of the laboratory in July and August, a general preparation was made by artificers under the orders the witness,---which artificers were then discharged.

The witness proceeding said that the fort lies on the highest ground in a circumference of three miles, was a regular half bastion fort, composed of 4 curtains and 4 half bastions, about 100 yards on each face, not including the half bastions; about 75 yards being the extreme length of the curtain---that the fort was made partly of earth---the parapet eleven feet in elevation--the thickness of the top of the parapet about 12 feet, the banquet for Infantry six feet from the foundation or level of the fort, and five feet for the parapet---the whole width of the rampart at its base 26 feet---at the bottom of the exterior or slope of the parapet there was a horizontal space of ground about 2 or 3 feet in the width, extending round the whole circumference of the work, the ditch upon an average was from five to six feet deep, and at the bottom 12 feet wide, beyond the exterior or slope of the ditch anseope, or glacis, or esplanade. There was formerly a covert way, of which traces were remaining unhurt. In the bottom of the ditch round the fort there was a row of pickets of cedar, nearly new, in diameter and 11 or 12 feet high: these pickets were fasten-

ed together by a rib...The gate was strongly made of planks with spikes ; over the gate was a look out house, also strongly built in the fall of 1811...cannon were mounted in the embrasures, most of which were repaired and put in good order in 1811, and the fort was, generally, in good order and in good repair.

Witness says that on the morning of the 14th August he was stationed at the battery called Bartlett's wharf, and he thinks the British were erecting batteries on the opposite side, he thought that he was placed at his station to return their fire, and for the general purpose of defence, as at that time every thing bore the appearance of an attack upon the fort, that the guns at the battery commanded by witness were on a platform on the edge of the river, and were intended against shipping expected from Mackana ; they were without any parapet and were much lower than those of the enemy--That, from the position of this battery and its form and from those of the enemy, he knew that in case of an attack from them he could do them no injury, and that his own men were exposed to be swept off every five minutes ; that he therefore applied to the General for leave to build a battery in the centre of the town, and upon a level with the battery erecting by the enemy, permission for doing which was obtained ; the battery was commenced about one o'clock on the 14th, and completed, so far as to be ready for action, at the same hour on the 15th ; that on the evening of the 14th, when the workmen, after leaving off work had generally dispersed, witness remained in the battery, to which General Hull rode up ; when witness conversed with him on the propriety of driving the enemy from their works opposite the lower end of the town, which had been completed for some time---the words of witness were, ' Sir, if you will give permission, I will clear the enemy on the opposite shore from the lower batteries'---the general answered. " Mr. Dalliby I will make an agreement with the enemy, that if they will never fire on me I will never fire on them"---and concluded his answer with this sentence" 'Those who live in glass houses must take care how they throw stones.'" He then rode off. Witness says that on the morning of the 5th July, before the American army arrived at Detroit, the enemy were in erecting two batteries on the same

ground where they were seen working afterwards--that witness was then ordered by Major Whistler, who at that time commanded, to fire on them from the battery at the lower end of the town, from the 24 pounders--that he did fire upon them, which had the desired effect--that they were driven away, as they were also from the King's stores, about a mile and a half distant, from whence they were taking off flour, and about the same time the inhabitants on the opposite shore removed, and took a new road at some distance from the side of river, to keep out of the range of our shot.

Witness says that the cannonading commenced about 3 o'clock of the afternoon of the 15th and was answered by the battery he commanded as well as from the other batteries--that this cannonade commenced a short time after the return to the enemy of the flag of truce which had been sent to ask a surrender of the fort, and continued to be exchanged till about 10 o'clock at night--that the fire of the 15th was not injurious to the army, only one man having received a wound in the leg; the town was a little injured--that on the 16th the firing recommenced on both sides (first by the enemy) at break of day; during which little injury was received, to the knowledge of the witness, the fire being principally directed towards our batteries--that witness had reason to suppose and has since understood that one of the enemy's batteries was silenced, which they repaired; and about 10 o'clock on the 16th August witness received orders from Capt. Dyson in the name of General Hull, to cease firing, which orders he obeyed--that the enemy then continued their fire for 15 minutes, which they directed principally against the fort, and which they were enabled to do with precision, not being annoyed by us; and some officers and men were killed in the fort, while witness with his men were in the battery unemployed; and that soon afterwards he saw the white flag hoisted on the fort--witness says that he did not know of any musket cartridges having been damaged.

Witness says that he was at Malden in July or August 1811, and has been there since--that the fort was a regular four bastion one of earth--that the curtains were nothing more than pickets or palisades on three sides--there wa^s

formerly on the river side a fleche, upon which a cannon had been mounted, but none were mounted on it in 1812 when he was a prisoner, at which time he went round it to satisfy his curiosity, but found no alterations, witness says that on the south side of the fort there had been considerable alterations, and the batteries had been repaired---the pickets appeared to be old, not very strong, and in a state of decay---Witness remained three weeks after the capitulation, and no northern Indians arrived sooner than about three weeks after the capitulation, witness was at Malden at which time when there was time for them to have heard of the fall of Detroit.

CAPTAIN DALLIBY CROSS-EXAMINED BY THE PRISONER.

Q. Please to describe the whole distance of the curtain round fort Detroit?

A. Going the circumference of the fort, following the line and tracing the angles, might make a difference of 75 or 80 yards from what I before stated.

Q. You have described the state of the fort and of the preparation for defence and attack. How long before the surrender were they in the state you have described?

A. We commenced in February 7, 1812 to put it into a state of defence against the Indians, and on the 4th July it was completed: before the army arrived we had lain upon our arms for three nights, and were prepared in the day, with matches lighted. From the 4th July to the 8th August the field artillery was put in order and many improvements were made in the implements, gun carriages and ordnance stores, for the purpose of moving into Canada and attacking Malden. On the arrival of General Hull at Detroit, the greatest exertions were used to put the regiment in a state of defence.

Capt. Dalleby then stated that the battery he erected in the middle of the town was about four feet high and the embrasures were marked out---that when General Hull went to that battery on the 14th August, and was asked by the witness for permission to fire on the enemy, the word "never" was used (the witness believes, but will not positively say) by Gen. Hull, in answer to the request.—He did not understand that Gen. Hull had made an agreement with the enemy, *not to fire on each other*, but that he was willing to do it.

Capt. Daniel Baker of the 1st Reg. of U. S. Infantry
was then sworn.

This witness stated in evidence that he was in the army at Detroit on the 15th or 16th August under Gen. Hull and had been there for several years before, in the quartermaster's department.—There were on those two days, or ought to have been, between 5 and 600 of the Michigan militia—that he served with the volunteers from that territory at Brownstown, where their conduct was brave—witness was at the fort of Detroit until he heard of the surrender, and saw Gen. Hull in the course of the morning of the 16th when he appeared to be embarrassed and at a loss how to act—that witness cannot say what the General's feelings were, but could account for the surrender no other way than by supposing him under the influence of personal fear—witness says that he was formerly acquainted with Gen. Hull—that he was tolerably well acquainted with the resources of the army, and was satisfied in his own mind that there was a sufficiency for its subsistence for three months—witness says the fort was much crowded.

Cross-examined by Gen. Hull.

Q. Were there not provisions brought into that country, for the support of the inhabitants every year?

A. I believe there were large quantities of pork brought into that country on speculation. I am of opinion that there was plenty of cattle and grain in the country; but pork, I believe, was not raised there.

Q. Can you state any acts of mine, exclusive of the surrender, that were indicative of fear?

A. I saw the General on the morning of the 16th in a variety of postures; sometimes sitting; sometimes leaning, and sometimes standing in the fort; and his manner shewed embarrassment—once on that day the Gen. was out of the fort.

The court adjourned to the next day.

19 Aug. Wednesday, 9th February, 1814.

The court met pursuant to adjournment, all the members being present, when

Lieutenant Dixon Stansbury, of the 1st Reg. of U. S. Infantry was sworn.

The evidence of this witness was as follows—that he belonged to the N. Western army and remained with it until the capitulation—that he was at Detroit on the 15th and 16th August and commanded one of the guns in the fort on the 16th---that on the night of the 15th the Gen. lay in the piazza of the barrack and went to bed about 11 o'clock---that when witness awoke in the morning the Gen. was not there, and witness does not know when the Gen. got up---that witness also slept in the piazza of the barrack---that he saw the Gen. in a tolerably safe place---As to his being afraid, witness cannot say---witness marched from Newport in Kentucky, and commanded 28 regular troops at Detroit---He did not then belong to the 4th Reg.

Cross-examined by Gen. Hull.

Q. You stated that I went to bed on the night of the 15th Did I not lie down on a matress, with my clothes and boots on?

A. You did.

Q. What time did I rise at?

A. Before day sometime.

Q. Did you not observe me in the morning of the 16th, going about in different parts of the fort?

A. I saw you on the parade ground, but during the principal part of the time, near the gate out of the way of the fire. There was no necessity, that I saw, for your being exposed in any other part of the fort, or on the parapet, to be fired at as a target. I had my orders, and I suppose the other officers had theirs.

Q. Had you an orderly book?

A. I had, it was taken in the vessel. I got another afterwards but never used it.

Capt. Oliver G. Burton, of the 4th Reg. U. S. Infantry, sworn,

Witness was at Detroit on the 15th and 16th in the North-western army, under Gen. Hull; knew of the capitulation and when it took place---was in Capt. Dyson's quarters when Gen. Hull, Gen. Broek, and two or three other British officers were writing (as I was informed) the articles of capitulation; and he firmly believes they were engaged on the

terms of it--he cannot say whether it was before or after this that the American troops were called into the fort, but at the time there was a company of British grenadiers, of about 150, standing in the fort at ordered arms, from whom they were posting their guards in and about the garrison--witness saw the officers in Capt. Dyson's quarters when a paper was handed to Gen. Brock, with some lines struck out, which witness supposes related to the regular troops returning home upon their parole---Gen. Brock agreed that the Ohio militia might return home on their parole---witness saw Col. M'Donald and Capt. Glegg writing---this was after the meeting of the officers in the marquee---witness does not recollect the names of any American officers in the room at the time, but there might have been some in it.

Cross-examined by Gen. Hull.

Q. How long before the meeting at Capt. Dyson's quarters, was the meeting between the British and American officers in the marquee?

A. I saw them at Capt. Dyson's about 11 o'clock, to the best of my recollection, and, in the marquee about 3-4 of an hour before that.

Q. Had you an orderly book?

A. I cannot say I had, after leaving the rapids of the Miami; mine having been put on board the vessel. I believe I had not.

Q. How did you receive your orders?

A. I received them sometimes verbally; at others by seeing them on paper through the adjutant.

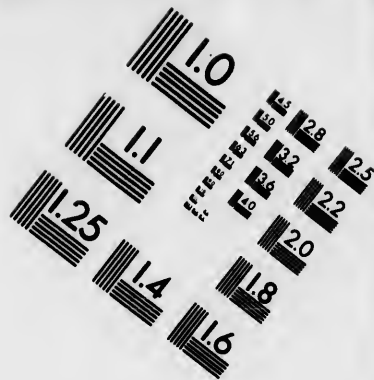
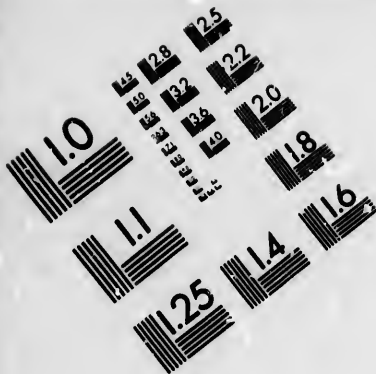
Q. Do you know whether these interviews took place before or after any accounts were received from Cols. M'Arthur and Cass?

A. I think it was after that I saw Capt. Mansfield arrive with a flag from Col. M'Arthur, as was said.

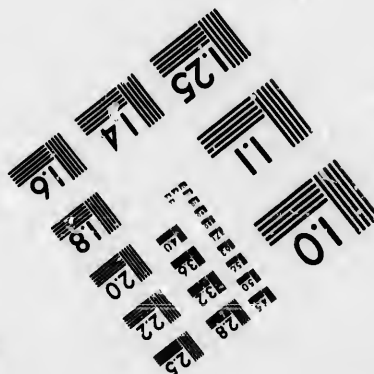
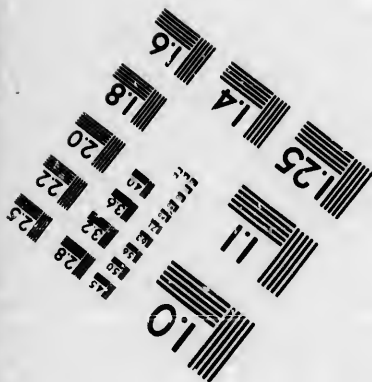
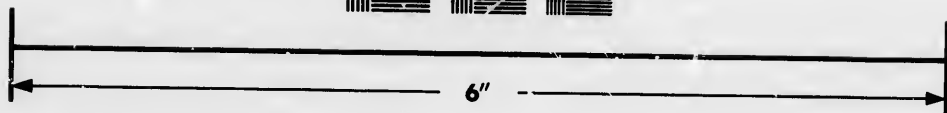
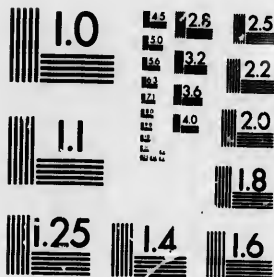
Major Thomas S. Jessup, of the 19th Reg. of U. S. Infantry---sworn, and said

I was brigade Major to Gen. Hull. The army moved into Canada with from 1600 to 1800 men; which force was occasionally increased and diminished, several detachments being made. At a council of war held about the end of July





**IMAGE EVALUATION
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or beginning of August, I was called on to explain a report of the Brigade---this was a few days previous to leaving Canada. At that time 1800 men were, to the best of my recollection, considered as the disposable force to act against Malden, (this perhaps included the Michigan legion) leaving enough to garrison Detroit---The Michigan militia were, I believe, to be called out. Sometime on the 15th I received information that a summons was sent by Gen. Brock to surrender; and I understood that Gen. Hull had answered that he was determined to defend the place---I met Gen. Hull on horseback in the street shortly after the answer was sent; and enquired of him the disposition to be made of the troops. Gen. Hull said that the upper part of the town was to be defended by the militia under Col. Brush; that the Michigan legion and the Regt. under Col. Findlay would form a line on the back of the town, from the fort, to close with the militia under Col. Brush; while the 4th Regt. would remain at or near the forts. The Gen. said further that orders had been given to the officers. He was apprehensive that if an attack were made the Indians would attempt to turn the town. At a short distance from the town was a cornfield, said to belong to Col. Brush. I was apprehensive that, if the attack should be made, the Indians might be sheltered by this field, and proposed that the corn should be cut down---the General would not agree to this, but permitted me to examine a block-house which was in the cornfield. I found it filled with hay or some other fodder, belonging, as I understood, to Col. Brush, and not in a situation to receive troops.

After Col. Findlay's line was formed in the rear of the town I discovered that the detachments of Cols. M'Arthur and Cass's Regts. in the event of an attack from the enemy, would be much exposed, they being nearly in the rear of the fort, I therefore, proposed to Gen. Hull that they should join Col. Findlay or Col. Miller, of the 4th---he directed that they should join Col. Findlay's; and I accordingly communicated the order to Capt. Sanderson, the senior officer I found upon the ground. On my return I met Gen. Hull, who told me that he had changed his mind with respect to the disposition of those Regts. and that I might proceed upon my other

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upon my other

duty, as he would communicate the orders himself. Shortly after quitting the General I met Mr. Dougan, quartermaster of Colonel Findley's regiment, and went with him to Spring-Wells. We discovered a considerable British force at Sandwich, nearly opposite to Spring-Wells; one or more British vessels had anchored below, and some of them were moving up slowly: the enemy appeared to be collecting boats, and we supposed they intended to cross the river. When we were about to return, the British batteries commenced firing, which was immediately returned by our fire. This was on the 15th. On our return we passed by General Hull on horseback in the street, near the second battery—he appeared to be agitated. Mr. Dougan or I, observed that the General was frightened; and it was also observed by one of us (I do not recollect which) that "*we must cheer him up.*" We approached him and spoke to him, and noticed that he was pale and very much confused—he dismounted from his horse and led him towards the fort—The firing continued for some time after dark. I was employed posting our vidette guards. After the firing had ceased, I requested Mr. Taylor and Mr. Dougan to accompany me to Spring-Wells: we again met General Hull near a Mr. Hunt's, at the lower end of the town, and requested leave to go to Spring-Wells: the General said that he had dispatched Captain Snelling to that place with a piece of artillery, and that, if I mistake not, Captain Burton and General Taylor had gone down. He observed also, that he was about to visit the lines and wished us to accompany him—We did so, rode along the line in front of part of Col. Findley's regiment, and round the back of the fort—when we arrived in the rear of the fort we noticed that Colonels M'Arthur and Cass's regiments were still there, and Captain Sanderson observed that they were unpleasantly situated, as they were exposed to the enemy's fire, without being able to perform any kind of service.

This was communicated to General Hull, who observed that, as the firing had ceased, there was no danger. The General then permitted Messrs. Berry and M'Dougal and myself to go Spring-Wells. We overtook Captain Snelling a short distance from them and accompanied him thither. He had, I think, a six pounder, and was very anxious to have a twenty-four pounder. It was the opinion of the other officers and myself, that with one or two twenty-four pounders, we could drive the British from their moorings: we searched immediately for a place to plant them, and discovered in an orchard a fine situation for a battery. We examined the bridges and considered it practicable to pass the cannon over them all except one, near which there was a large quantity of hewn timber. We returned and found General Taylor in the fort, who, we then learned, had also proposed taking down heavy cannon. I urged it to General Hull, who objected in the first place to the bridge, and then that the pieces were heavy and unmanageable. Some person (I think General Taylor) said that one hundred horses could be ready in a moment. I then told General Hull the result of my observation as to the bridge: he answered that it was the opinion of the superior officers of artillery, that the cannon could not be taken over the bridges, and that he would be governed by it. Captain Dyson, whom I saw standing by when I turned round, said he was prepared to obey any order. I then parted from General Hull and did not see him until a little before break of day on the 16th, by candle light, when he came to my tent and desired me to write an order to Colonel M'Arthur to take a back route, as he was apprehensive it would be dangerous to come up the river on account of the enemy. The General said he would send for the note, and, about sunrise, a person equipped as a dragoon called for it. About this time the firing commenced—some time after I was at breakfast with Colonel Findley when

Captain Hull came to his tent, apparently intoxicated : he attempted to communicate an order, but could not be understood ; and Colonel Findley requested me to ride to General Hull to know what the order was, as it might be of considerable importance. I found the General in the fort : he said he wished the line of battle to be formed at some distance below the fort ; directed me to order Colonel Findley's regiment and Colonels M'Arthur and Cass's detachments to be posted there ; and ordered me to consult Colonel Findley, and to tell him that he would support him immediately. The line was formed perpendicularly to the river, perhaps a quarter of a mile below the fort ; the left behind a row of high pickets ; the right, I believe was behind a common fence ; our dragoons were on the right. When the line was formed, Captain Maxwell and myself went out for the purpose of reconnoitering the enemy : we discerned them marching in column through a lane, on *their* left of which there was a number of orchards, gardens and buildings ; the fences appeared to be a picketing or stockade. I returned immediately to the fort, having requested Captain Maxwell to report to Colonel Findley the situation of the enemy.

On my arrival at the fort, I immediately reported the position of the enemy to General Hull ; observed that this would be a fit opportunity for artillery to open upon them ; and that if they attempted to form in line, our dragoons could take them in flank. The general permitted me to take out some pieces of artillery, and directed me to take command of the dragoons. Immediately after leaving the fort I met with Captain Dyson, who, I think, informed me that Lieutenant Anderson had taken out a piece of artillery. I left him and proceeded to the right, to command the dragoons who were patrolling. By the time I met with some of the officers of dragoons, I perceived that our line was breaking up, retreating to the rear, towards

the fort, by flanks of platoons or companies. I rode to Colonel Findley to inquire the reason: on my way I met an officer and inquired what was the matter: he said, "look to the fort;" I did so, and saw a white flag flying. Colonel Findley, if I recollect right, said, he did not know why we retreated, and desired me to ride to the fort and inquire. I saw General Hull in the fort, and thought him very much frightened when I met him. I inquired of the general if it was possible we were about to surrender. He said something about the enemy's force and terms, but I could not collect what: his voice was at this time tremulous; I mentioned that we could at least hold out till we were joined by Colonels Cass and M'Arthur. He exclaimed, "My God! what shall I do with these women and children!" I left him, went to Colonel Findley, and stated that all was lost, and requested him to endeavor to save us. After this I did not see the general until the terms of capitulation had been agreed upon; I then met him in a piazza before Captain Dyson's quarters; he appeared tranquil and perfectly composed. He said that he was sorry that I had disapproved of his conduct, as he had always respected me; that no man felt more on the occasion than he did; and made some observation that conveyed the idea that he considered that the government had abandoned him, and he hoped that I would continue to act until the troops were marched out of the fort; to which I replied, that I would do my duty. I then received either from General Hull, or from one of his aids, a paper containing a copy of the articles of capitulation, which I was directed to read to the troops, who were marched out by battalions about 12 o'clock, and formed in a hollow square below the fort, had the articles of capitulation read to them, and stacked their arms.

Major Jessup having continued his narrative so far, recurred to former parts of it, and stated that, when, be-

fore the capitulation, he communicated to General Hull that he had reconnoitered the enemy, witness found him in the fort on the side next the enemy's battery, completely sheltered, sitting on the side of a tent by a bed; that he then told the general, that the enemy's force was about 700 or 800, and that our guard which was most advanced had surrendered to the enemy. At this time witness thinks General Hull said that Colonel Brush told him that his men were leaving him; he also exclaimed that four men were killed at one shot, and appeared to be so much alarmed that he did not know what he was about. The tobacco-juice had fallen from his mouth upon his jacket and about his cheeks. The head of the enemy's column was at some yards distance, and a detachment of the enemy's troops came into the fort before the American troops marched out, and before the articles of capitulation were signed. No means were taken, to the knowledge of witness, to prevent the enemy from getting command of our batteries. Witness was informed that the advanced guard which had surrendered, consisted of about twelve, said to be commanded by one Godefroy, a Frenchman and a citizen.

Major Jessup stated also that, on the evening of the 15th, when he mentioned to the general that the enemy had moved with most of his forces, he observed that it would be a fine opportunity to cross over and spike the cannon; and proposed going himself with 200 men—then with 150, and then with 100 men—on which propositions several observations were made, but no permission given to the witness; whose opinion was then, and still is, that the enemy's works could have been carried with one hundred men. Witness said that, at the moment of this conversation, a shot struck a house near him, upon which General Hull was much agitated, dismounted, and led his horse to the fort. Witness did not know from what the agitation arose, but believed it was from fear, and the novelty of his situa-

tion. Whenever he saw the general before the capitulation, he was agitated; after it he appeared composed. Witness says that the country near was of such a nature, as that, by cutting down some of the orchards in the neighborhood of the fort, and posting men in the gardens, a few men could have defended themselves against the whole British force, and that he wondered that it was not occupied on the evening of the 15th August.

Major Jessup stated also that he had received a report from different adjutants of different corps, estimating the men fit for action, and thinks that the amount (as stated in General Cass's letter) exceeded 1000 men, including the Michigan militia of 400, and the detachments absent with Colonels Cass and M^r Arthur; perhaps this estimation includes the Michigan legion, which, on an occasion when he had two companies of them under his command, behaved as well as any troops he ever saw, having formed on an island, where some fighting was expected, in the most regular manner. There were also on the evening of the 15th about 30 or 40 armed waggoners. The witness did not know the enemy's force, but his impression, from the attempt he made to count them, and from the size of their platoons and of their columns, was, that the white force was about 750, exclusive of Indians—a part of the militia force was dressed in red coats as regulars.

Major Jessup was then questioned by the Court.

Q. Did you preserve the orderly book of the brigade of which you were brigade-major?

A. By an article of the capitulation it was given up, as forming part of the public documents, as stated by General Brock and Colonel M^r Donald; who considered orders and reports as such, and directed that they should be delivered to Lieutenant Bullock, of the 49th regiment.

Q. Did you advance, on the 16th August, to reconnoitre the enemy, by order of General Hull?

A. I did not: I advanced entirely by order, or at the request of, Colonel Findley, who commanded our line in advance of the fort.

General Cass and Majors Tremble and Van Horne were discharged from any further attendance on the Court.

(Adjourned to the next day.)

20th Day. Thursday, 10th February, 1814.

The Court met pursuant to adjournment—all the Members present.

Major Jessup's examination by the Court was continued.

Q. What were the conduct and sensations of the troops when you read the articles of capitulation to them?

A. On the morning of the 16th the spirits of the troops seemed to be somewhat depressed; but, upon my giving the order to form the line of battle, they were revived, and appeared desirous of meeting the enemy. When the line was retreating both officers and men appeared displeased and murmured; and when ordered to stack their arms, after marching out, they evinced the greatest dissatisfaction and indignation.

Q. Did Colonel Brush's men leave him, as stated to you by General Hull?

A. I believe not. I only stated that the general mentioned that Colonel Brush reported to him (the general) that his men were leaving him. I did not hear of this but through General Hull.

Q. Do you know what was the cause of the troops being low spirited on the morning of the 16th, before the line was ordered to be formed?

A. They had been under arms the whole of the preceding night, and appeared to be of opinion that no exertions would be made to repel the enemy.

Q. While the terms of capitulation were discussing, were the troops of the U. S. so posted as to have been able to make a defence, in the event of degrading terms being insisted on by General Brock?

A. The men were crowded in the fort in the utmost disorder. The enemy's troops were permitted to approach so near the fort as to be able to take possession of the batteries.

Cross-examined by General Hull.

Q. Did you see Colonel Brush's men on the morning of the 16th?

A. I saw Colonel Brush's men after my return from reconnoitring: they were marching across the common at the back of the town.

Q. In your direct examination you have stated that your orderly book was taken—where are the manuscript orders?

A. I believe that Captains M'Cormick and Butler have the orderly book of their regiments, but do not know that they are here. Those gentlemen were adjutants to Colonels Findley and M'Arthur's regiments. The manuscript orders were given up also.

Q. Did you receive any orders from me; and how were they communicated?

A. They were generally sent by an aid-de-camp to me: upon which I assembled the adjutants of regiments at my quarters, and communicated them. I speak of the written orders and those while on march.

Q. Was there not an order of march published?

A. There was an order of march published at Dayton, or in its neighborhood: we departed from that order in our march from Urbana.

Q. Do you recollect the paper, now presented, and in the words "*Effective aggregate of the three regiments, about 700?*"

A. It is my hand-writing, and was handed by me to General Hull, on the evening of the 15th August—the waggoners of the regiments, I believe, were included in the estimate, but the 4th regiment was not: it was only what remained of Colonels Cass and M^rArthur's, and the whole of Colonel Findley's regiment, and so explained at the time. This estimate was made by me at the request of General Hull, on the evening of the 15th August.

*Captain Charles Fuller, of the 4th Regiment Infantry,
sworn.*

This witness stated that he belonged to the North-Western army under General Hull, and was at Detroit on the 15th and 16th August, 1812—that soon after the white flag was hoisted witness went to the gate of the fort, and met Lieutenant-Colonel M^rDonald and Major Glegg, of the British army, on horseback. General Hull was standing near the gate. One of them said to the general that they were sent to him by General Brock, on seeing the white flag hoisted, to receive any communications General Hull might have for General Brock, when General Hull replied, "*Gentlemen, I shall surrender. I beg you will go to the marquee in the field, where I will come or send*"—that Major Glegg requested witness to accompany him, to shew where the marquee was, as he was apprehensive the militia might fire upon him, from not knowing his business; that witness went with them to the marquee, where they were furnished by Major Snelling with pen, ink and paper; soon after which General Hull, Colonel Brush and Colonel Miller came to the marquee, where witness remained about ten minutes and then went to the fort—that, on his reaching the fort, he found the militia (i. e. Colonel Findley's militia) in the greatest confusion, with their arms stacked—that, after this, witness went to Captain Dyson's quarters, and saw the two British officers coming out of them. Colonel

M'Donald had a paper in his hand, which he said was the articles of capitulation signed by General Hull; that he was taking it to General Brock for his approbation, and wished witness to accompany him, for the same reason that he went to the marquee; with which request witness complied, and found the British column nearly half a mile from the fort, opposite Mr. May's house—that he then left Col. M'Donald and returned to the fort. Witness says that he saw General Hull several times on the 16th; and in his judgment he appeared to be frightened—witness thought so at that time—he never saw the marquee before the morning of the 16th, and does not know when it was pitched.

In answer to a question by General Hull, Captain Fuller said that he received a letter on the 2d July (the day after the vessel left the Rapids of the Miami) from General Hull to Colonel Anderson, to procure for witness a boat and hands, that he might go in pursuit of the vessel which took the baggage and sick on the lake. Colonel Anderson could not find a boat; and, from the winds blowing so hard, it would have been impossible to overtake the vessel. Colonel Anderson was the commanding officer of the militia then, and did every thing in his power to procure a boat—that the general sent for witness about daylight in the morning, to send him off to stop the vessel, saying that he had just received an account of the declaration of war. He thought the general appeared on the morning of the 16th like a man full of anxiety, dull, heavy and low-spirited.

Q. You stated that I had the appearance of being under personal fear: do you not think that appearance might have proceeded from anxiety and the heavy responsibility I was under?

A. I presume it would. I have no doubt of your appearance on that occasion being the effect of personal fear: I had none then, I have none now.

Captain John L. Eastman, of the 4th Regiment U. S. Infantry, sworn.

Captain Eastman informed the Court that he belonged to the North-Western army under General Hull, and was at Detroit in 1812, adjutant of the 4th Regiment—that the morning report of that regiment, on the 15th August, was 345, grand aggregate of total present, including a small detachment of the 1st regiment under Lieutenant Stansbury, then unfit for duty, and the sick; that he saw Colonel M'Donald with General Hull in Captain Dyson's quarters—heard the general express to Colonel M'Donald a wish to make provision for the Canadians who had taken protection from him, when Colonel M'Donald replied, "It is totally inadmissible," and the general said, "*Well, Sir, I shall surrender.*" When the shot from the enemy killed the officers, General Hull went into Captain Dyson's quarters, and immediately returned with a letter, which he gave to Captain Hull, his aid, to send by Captain Snelling with a flag. Captain Hull took one of the pikes made for boarding the Queen Charlotte, tied a white handkerchief upon it, and gave it to Captain Snelling, who took hold of it without seeing the flag, but upon seeing it, said he would be damned if he would disgrace himself by taking that flag from the fort. General Hull standing near, asked what was the matter; Major Snelling said he was in a passion, and Captain Hull then took the flag and went witness did not know where.

Witness said that he saw the general on the morning of the 15th, when the shell burst. When it came into the fort he ran as if he was going under the platform, but witness did not know whether it was his intention or not. The general's whole conduct, on the evening of the 15th and morning of the 16th, was such as to impress the witness with the conviction that he was under the influence of personal fear, which opinion witness expressed at the time. Witness remained

24 days at Detroit after the capitulation. The Saganac Indians arrived there in about three days after the capitulation, in number about 250, of whom 60 were warriors—the Makana Indians did not arrive before the 10th or 11th September, in number about 1100 or 1200 warriors.

Being Cross-examined by General Hull, witness said that he had not the orderly book of the 4th Regiment, nor any manuscript orders, and presumed the enemy possessed themselves of it—that Lieutenants Stansbury's and M'Cabe's detachments were included in the morning report of the 4th Regiment.

*Lieutenant George Gooding, of the 4th U. S. Regiment
Infantry, sworn.*

Witness says that he was in the North-Western army under General Hull, and went with the baggage in the vessel from the Rapids—did not go by any order, and never knew the master of her before he went on board—that he saw two trunks on board, which he supposed belonged to General Hull, containing letters from the Secretary at War to the general, but does not know of any muster-rolls. The boat was taken in the mouth of the river, between the shore and the island of Bois Blanch, and on the Malden side, near Ellsoll's house—they were obliged to pass near to the fort of Malden. The boat that took them was coming from the island. Witness saw on the south side of their boat a large batteau full of British soldiers, making for them—that there were in the boat with witness altogether about 40 or 45 men, 34 or 36 of whom were of the 1st and 4th regiments, the whole of whom were invalids; two militia officers, three serjeants, and himself being the only persons in health on board, excepting the boat's crew—that the arms were in the hold—that when they started they had not the smallest apprehension or suspicion of being attacked—that on the 2d July, witness was taken to Amherstburgh, and

remained there until the 6th August—while there he saw a letter from General Harrison to General Hull, naming a certain Indian chief, upon whom the latter might rely; which Indian was put in irons in consequence. Witness says that the regular British force at Malden was from 200 to 250; that about 120 boatmen arrived after he arrived there, he having seen them draw part of their arms from the military store; that the militia was coming in every day, but he did not know their numbers, nor ever saw them parade—the militia guard about the middle of July stood 48 hours, on account of the smallness of their numbers; that Colonel Proctor arrived at the end of July, or first of August, in an open boat, with ten or twelve men. Witness knew of no force brought by Colonel Proctor, nor of any reinforcements after his (witness's) arrival there, except about 50 or 60 Sank Indians, who came about the middle of July. Witness saw a man riding in, and heard him halloo "The Yankees are coming," and then he saw some things going on board the brig Hunter, and there was much confusion in the town.

Cross-examined by General Hull.

Says that he thinks there were an officer and six men in the boat which took our vessel with the sick and baggage; that he saw some small arms and cutlasses—that he had no orders to throw away arms or any thing; there was a captain Sharp on board, a senior officer; that the boat was loaded and the arms stowed away before he went on board; that he does not know the number of militia at Malden; they were coming in every day from the 2d, to about the 15th July; that they had no thoughts of being taken, or of making any attempt at resistance, and he has no recollection of any instructions to keep on the American side; that the confusion he spoke of as being at Malden was in the town; he was not in the fort. In his opinion, if they had been prepared for action, they could not have escaped.

*Major Jeremiah Monson, 27th U.S. Regiment Infantry,
sworn.*

Major Monson said that he was wounded before the army went into Canada, and was not reported fit for duty, nor has done any duty since the 9th or 10th July, when he was wounded; that, knowing that Colonel Cass and Major Morrison were absent, he desired his brother, on the evening of the 15th, when the enemy's fire ceased, to take him to the ground where his regiment was posted, as well as Colonel M'Arthur's, in the rear of the fortress and in the line of the enemy's fire; that General Hull and his aid, Major Jessup, came there—the regiments were in disorder and confusion—the sick and wounded of these detachments were situated in the ditch of the fort, whither they had gone for safety, from the place assigned to them; that witness applied to General Hull to have them removed, and was requested, if his health would permit, to attend and arrange them as well as he could, which he did, and struck the tents, and General Hull expressed his approbation of what he had done; that he asked the general if it would not be proper to inform Colonel Findley of the new disposition of these men, and was requested, as it was on his way to his quarters, to do it, but being exhausted, he sent word by Major Van Horne. This was between 11 and 12 o'clock at night.

Witness said that he, as well as his brother, had some business with General Hull, and went to him on the 16th, about one or two o'clock, P. M. Major Glegg came in and apologised for the firing having broken some of the windows of the general's house. The general told the witness that he could do nothing in his business till Colonel Cass arrived, and that he was expecting him every moment. He said, "I almost dread seeing the Colonel, as I expect he will censure me very much, my country will also cen-

sure me, but, under existing circumstances, I have done what my conscience directed—I have saved Detroit and the territory from the horrors of an Indian massacre.”

Cross-examined by General Hull.

Q. Were not the best men of Colonels M'Arthur and Cass's regiments sent upon the detachment under those officers?

A. I do not know; I presume so. When I formed the remainder of the two regiments, there were 30 or 40 of those invalids, who were with sufficient officers in the rear, formed as a reserve, and permitted to lie down with their blankets.

Q. What was the quality of the arms of the three Ohio regiments?

A. At the time they drew their arms, I was acting as aid to Governor Meigs, and was ordered, with a mechanic, to inspect them: many of them were condemned, and many of them proved very bad. On the day previous to my being wounded, there were considerable complaints about the arms—Colonel Cass ordered them to be examined, which was done; there were many unfit, and were replaced by some new arms, issued by order of General Hull from the arsenal at Detroit.

Q. What was the state of the arms at the time of surrender?

A. I do not know.

(Adjourned to the next day.)

21st Day. Friday, 11th February, 1814.

The Court met, pursuant to adjournment—all the members present—when

Lieutenant Asher Philips, of the 19th Regiment United States infantry, was sworn and said

That he was doing duty in the fourth regiment of infantry, and in the army commanded by Brigadier General Hull, and was at Detroit on the 15th and 16th August, 1812—that he saw General Hull on the morning of the latter day, but did not hear him say much; he was sitting on a tent, which was lying on the ground, with his back towards the parapet or wall, one gentleman and one lady near him—he appeared to be very much agitated, and witness then supposed that he was under the impression of fear—the gentleman who stood by the general was Doctor Cunningham, who the lady was witness did not recollect.

Q. (By General Hull). Did you not see a number of officers about me, while sitting on the tent, on the morning of the 16th?

A. There might have been; but I do not recollect. They may have been walking about, but not sitting down.

Captain Charles Fuller was again called, and being examined by the Judge Advocate, says

That there were some women in Captain Dyson's quarters on the morning of the 16th August, sewing up flannel cartridges. Colonel Brush's wife and the wives of some other of the officers were in the fort on that morning.

Questions by General Hull.

Q. Did you not see the Ohio militia (volunteers) then? State what you know of their discipline.

A. They were as well disciplined as militia usually are, and better than the Indiana militia under General Harrison.

Q. Was it in my power to prevent indiscriminate firing, when I gave orders to that effect.

A. I heard of orders being frequently given to prevent promiscuous firing, but they did not entirely suppress it.

Q. Did you never hear of a mutiny among them?

A. I heard the sentence passed upon two or three of the ringleaders. Some of the volunteers refused to march from Urbana—Captain Cook's company was sent back—There are more particulars stated in General Hull's official letter.

Q. Were there not labels posted on the trees, recommending to the men not to march? and were not some of the officers rode upon rails?

A. I heard of these things, but never saw them.

Colonel James Miller, of the 6th Regiment United States Infantry, called and sworn.

Colonel Miller said that he commanded the fourth regiment of United States infantry in the North-Western army under command of Gen. Hull, joined the army at Urbana and remained with it until the 16th August—that he knew nothing of an order of battle in the march from Urbana to Detroit—that there was a general understanding how they were to form in case of being attacked in the woods—this was known by his regiment, but he could not say as to the militia. Witness crossed over to Canada; was at the river Aux Canards with Colonel Cass and the detachment under his command; went with a detachment of 50 regulars and about 250 Ohio volunteers. Witness was a volunteer, by consent of General Hull, and under the command of Colonel Cass—the detachment proceeded within a mile and a half of the bridge, and then sent some men in advance, who reported that there were 50 men of the ene-

my (25 on the bridge, and 25 on the other side of it); 40 riflemen were then detached towards the bridge, so as that the main body of the detachment might march under cover, with a determination if possible to secure those 50 men. It was expected that some guides would be procured; but, not having any acquainted with the country, the detachment shewed itself to the enemy sooner than was intended; in consequence of which they fell back from the bridge and formed the line of battle so as to prevent our cutting off their retreat. They fired three ineffectual volleys upon us and made good their retreat. The detachment took possession of the bridge; left a guard at it; and fell back with the main body to some farm houses, with the view of getting some provisions, having taken none with us.

An express was then sent to General Hull informing him of what had been done. The possession of this bridge by the enemy was a great obstacle in our way; and having now got possession of it, we presumed it would be kept. In answer to the communication General Hull sent an order for the detachment to return, as he could not think of dividing the army, and did not intend proceeding to Malden for some time. A second application was then made to the general, urging the necessity of maintaining the bridge, in answer to which General Hull sent a discretionary order on the subject. The officers were called together to advise upon the case; and it was determined that, unless we could support the bridge with our whole force, we had better return, as the enemy was very strong, in whole force, within four miles of the bridge, which was fourteen miles from our main body. Witness said that he mentioned to Col. Cass, and they agreed, that, as they had not the disposition of the whole force, they should not take the responsibility—they then left the bridge and returned to the encampment.

Witness said that on the evening of the 8th of August,

he left Detroit, having been ordered with a detachment of 600 men to go to the river Raisin, for the purpose of escorting some provisions which were under charge of Capt. Brush—that the first opposition he encountered was from a party of Indians, who fired upon his advanced guard near Maguaga—that the detachment being in the woods lightened themselves by throwing off their knapsacks with their provisions, and then advanced upon the Indians, who retreated and were pursued two miles and a half—that witness did not think it prudent to allow the men to move from the line to take up their knapsacks—that the Indians reached their main force there and made a strong opposition, but were defeated. Witness could form an opinion of the strength of the enemy only from the length of our line, and he considered the forces on each side nearly equal. He thought that by this operation, the communication with the river Raisin was completely opened. Witness sent a spy into Brownstown and understood by Captain Maxwell that the enemy had disappeared; he then returned to the field of battle to collect his dead and wounded, and encamped there for the night. Captain Maxwell was sent out the ensuing morning, and brought two or three scalps on red painted poles left by the Indians, as evidence that he had been at Brownstown. Witness said that he detached Capt. Snelling to Gen. Hull, at Detroit, to inform him of the transaction, and that we had lost the greater part of our provisions; and requesting him to send provisions with boats or waggons to carry back our wounded men; and also with a further request for a reinforcement, if he could spare it, as the men were very much fatigued and many were wounded—that Colonel M^rArthur came down the next day with 8 or 9 boats, and brought (as witness thinks) 2 barrels of flour, one barrel of pork and a part of a barrel of whiskey—that the men were very hungry, and made, witness believes, only a breakfast of this supply—that it was late in the day

when the wounded men were got into the boats—the distance then from the river Raisin was 16 or 18 miles, being about half way between Detroit and river Raisin—that witness thought he could not reach the river until late the next night, and, as the men were still complaining of want of provisions, that he could send to General Hull at Detroit for some, and also send Doctor Scott for two days provisions—that the messenger did not return until a few minutes before sunset the next morning, and then to witness's inquiries into the cause of the delay, answered that he had come by a back road and had lost his way. He brought to witness an order in writing from General Hull to return to Detroit, and said that he should find provisions on the way, at or near the river Ecorces—this order witness obeyed—took up his line of march on the 11th, and arrived at Detroit on the 12th—that in the force under witness's command on that service there were about 280 regulars, the rest were volunteers from Michigan and Ohio. From their conduct on that occasion, witness thought he never saw better troops of the description; they all behaved to his satisfaction except the cavalry—the loss in the battle in killed and wounded, was 81—he thinks 17 killed on the ground and 64 wounded—reports stated 104 Indians and 30 whites of the enemy killed and wounded.

Witness said that he was at Detroit on the 15th August, when General Brock sent the summons of surrender to General Hull. Col. Findley and the witness were directed to attend at the general's quarters, when he shewed the summons and asked what was to be done; they replied, not to surrender. The general sat down, penned an answer, and asked if it would do.

Witness said that he was on that day, and had been for some time, very sick—that during the cannonade General Hull was in the fort on the morning of the 15th, and was informed that the enemy was approaching, and that some

of Captain Knagg's men, of the Michigan militia, had joined them—that some time after this General Hull asked witness if he had not better sent a flag; witness replied, he did not know, but that he had better consult the commanding officer on the outside of the fort (witness being stationed in the fort with his regiment, and having command of it) who had a better opportunity of ascertaining the number of the enemy; that General Hull, in answer to this said there was no time for consultation and that he would send a flag: and he did so. That some time after this Colonel Findley's troops came into the garrison. That Gen. Hull went out to a tent that was pitched in the southerly part of the fort and sent for witness, who went there, and as he approached saw the general standing with his back to the door—witness heard him say to Col. M'Donald or to Major Glegg "*I will surrender.*" He then requested Col. Brush and witness to assist in drawing up some articles of capitulation; that witness remained there, lying on the ground, having a violent fit of the ague, while Brush and M'Donald were penning the articles; that the paper, now exhibited, is the paper he signed; that at the time that it was read to him, it contained a provision that the troops should march out with the honours of war; that after the articles of capitulation were drawn up, Col. M'Donald asked witness to sign them, which he declined to do, as it would have had the appearance of his having given his approbation to the measure, or of his having some agency in it; that Col. M'Donald replied, that it could not be so, as it was only a matter of form, and that witness, upon reflection, thinking so too, did sign them, then retired to his bed and knew nothing more.

Witness said that he never saw a letter dated the 17th August, signed by General Hull, to the officer commanding at the Rapids, directing him to surrender to the British; that it never had been submitted to him, nor did he ever see it till then.

Witness did not think that General Hull appeared much agitated on the 15th ; but that on the 16th, he did appear so. He [the General] was in the fort on the morning of the surrender, sometimes leaning, sometimes sitting, and at others standing ; witness cannot say whether the agitation proceeded from personal alarm, or from a consideration of the heavy responsibility in which he was involved : and he does not know whether at the time he formed any decided opinion on the subject. Witness says that General Hull after the surrender said to witness, that the enemy might perhaps take some advantage of that part of his proclamation which said that "no man taken in arms by the side of an Indian, should be taken prisoner."

Examined by the Court.

Q. What was your opinion, while in Canada, as to the propriety of making an attack upon Malden, either soon after the army arrived in Canada, or afterwards ?—Were you or were you not, satisfied, from the best information you had received, that an attack on Malden would be attended with success ?

A. I was always fully of opinion that we ought to have made an attack on Malden within a few days after we arrived in Canada. I never had any doubt of the success of an attack at any time.

Here an objection was made by the prisoner to the witness's opinion being asked ; which the court agreed to consider. The question was then modified so as to read as follows :

Q. Did you express in council your opinion, while in Canada, as to the propriety of making an attack on Malden, either soon after the army arrived in Canada or afterwards ? and what was that opinion, as to its propriety and probable success at that time ?

A. At the council which was called to decide the ques-

tion whether we should attack Malden immediately or wait for the artillery, I supported my opinion that we should not wait for the artillery, and suggested to General Hull that we should divide the army equally and send down one half in boats, or by a back road, to below the fort, and with the other half approach them from above, that the troops might make an united attack; and I told the general that I would answer for my men, that they would attack the fort and not fall back in disorder. The general said that if the other commandants of regiments would answer for their men he would attack the fort. They said that they could not answer solely for their men, but had no doubts but that they would behave well. The general said he had no doubts as to the regulars, but that he had some as to the militia, who were inexperienced, against a fort.

Q. What was the strength of the 4th regiment fit for duty on the last of July or first of August, including the detachment of the first—or, from the latter part of July to the 3d or 4th August?

A. I cannot say precisely—about 300, principally in good health; the adjutant has some reports by him, I believe.

Q. Were the men of the 4th regiment trained to the exercise of the great guns? and what was their force on the morning of the surrender?

A. They were pretty well trained, having been practised by Captain Truman at Fort Independence; there were about 250 or 260 effective for duty.

Q. Was it suggested in any council that a position near Malden would facilitate the communication to the river Raisin?

A. I think I suggested it several times.

Q. Was there any general order given for posting the troops in different situations for the defence of the fort and town of Detroit, on or before the 16th August, 1812?

A. I do not recollect any written order ; there was an arrangement made the evening before. Col. Brush was to defend the upper part of the town with his men. Col. Findley was to form rather northerly of the fort. The 4th regiment was to be stationed in the fort, and the residue at the barteries. This arrangement was made by General Hull.

Q. You stated that Malden was to be attacked without waiting for cannon, as proposed by you in council, and that you gave a plan of attack ; were not both these opinions overruled by a majority in the council ?

A. Yes : it was so *proposed* in council. My plan was not submitted to the council : the only question was, should Malden be attacked without waiting for cannon or otherwise.

Adjourned to the next day.

22d Day. Saturday, 12th February, 1814.

The Court met pursuant to adjournment, all the members present.

Colonel Miller cross-examined by General Hull.

Q. Was I not active in forwarding the march of the army ?

A. It is my opinion that General Hull hurried the troops in their march, after he joined, as much as prudence would dictate.

Q. Were not my personal exertions actively engaged ?

A. I observed your personal exertions in the march from Urbana.

Q. Did I not, during the march, pay as much attention to the discipline and to the reviewing of the troops as their situation would admit, from their labour and fatigue in opening the country ?

A. At Urbana the troops were drilled part of an afternoon: from thence to Detroit there was no opportunity for disciplining them. The fatigue of cutting the road, with the march, was as much as they could endure.

Q. Do you not recollect the troops being called out for drill and review at Urbana, but being prevented by a storm.

A. I do not recollect.

Q. Was there not an order of march generally known to the army.

A. The order of march exhibited was that understood by me. I do not recollect whether it was to be followed by written order or not. The troops generally marched according to that order of march.

Q. Was not your regiment to form in front in case of an attack?

A. That was my intention, but I do not know how the other regiments were to form.

Q. Was not the column to form by facing outwards, in case of an attack upon the right flank?

A. That was generally understood, but I do not recollect any order either verbal or written. General Hull conversed with me frequently on the subject; and I think it was communicated to the other officers also by conversation.

Q. Was not this order of march similar to the one adopted by General Wayne in passing through that country?

A. It was, I believe, as General Hull told me it was his intention to adopt the same order. I believe this was similar.

Q. Did you not perceive me almost constantly in a situation that I could, in case of an attack, make a disposition of the array?

A. During the greater part of the march General Hull rode near me—I was in front—he sometimes passed to the rear.

Q. Was not the paper (exhibited) the plan of encampment for the army?

A. We usually encamped in the form of a hollow square, facing outwards—the fires fifty yards without the lines of the squares.

Q. Had we not generally a breastwork of logs without the lines of the square?

A. After we had advanced so far as to be apprehensive of an attack, breastworks were generally made at such a distance as to leave room for wheeling a platoon, 20 or 30 feet in front of the line of tents.

Q. In case of alarm was not the post of each regiment designated by orders, so as that each should form in order of battle in front of its huts?

A. Yes, it was generally understood. I believe there was a verbal order from General Hull to that effect.

Q. Was there not a signal by tap of drum given by my order and at my quarters, every morning before day, which signified that the troops were to turn out and form?

A. This was the general understanding, and acted upon accordingly.

Q. Did I not use exertion and industry at Detroit to prepare the heavy and light field artillery?

A. I discovered no want of exertion in that respect.

Q. After your battle at Maguaga, what reinforcement did you want, or suggest that you wanted?

A. I think I suggested 150 or 200 men, if they could be conveniently spared.

Q. Were there no provisions to be had near the place where the battle was fought?

A. We found a number of Indians' hogs, green corn and potatoes. I know of no settlements nearer than the River Ecorces, or that of Detroit: nor of any flour or bread-stuffs.

Q. Were not the 280 men you had with you the whole, or nearly the whole, of the effective men of the 4th regiment?

A. I had almost the whole effective force, except what was left with Captain Cook in detachment under Major Dennie, on the other side of the river, in Canada; I do not recollect the number. When I speak of the 4th Regiment, I mean to include Stansberry's and M'Cabe's detachments.

Q. Were there any British troops in the fort, before you had signed the capitulation at the tent?

A. Not to my knowledge.

Q. Did you see any conduct of mine on the morning of the 16th which the fatigue I had undergone, and the responsibility which was upon me, might not have produced?

A. I don't know that I did.

Q. Can you mention any act of mine on the 16th which you did at the time, or do now, impute to cowardice or personal fear, and if so, what?

A. Yes! such an immediate surrender I think was indicative of a want of courage.

Q. Did you see me while I was in the fort in any place or situation unfit for a commanding officer?

A. The general was towards the easterly part of the fort—I was there myself—he sat down a considerable part of the time near the parapet—this was during the cannonade. I considered it a safer part of the fort.

Q. Was not my situation near the gate the most convenient for receiving communications from without the fort?

A. It was.

Q. Did Colonels M'Arthur and Cass object to your plan of attack on Malden, proposed in council?

A. I do not recollect.

Q. Were you, in council, in favour of any other mode of attack on Malden than that you proposed?

A. I voted in council for an immediate attack. After having so voted, I proposed to the general my views of attack. I did not suppose General Hull to be bound by my opinion.

Q. Do you recollect my written orders sent to you at Brownstown by Colonel M'Arthur; and that when Colonel M'Arthur went with 100 men, I would not divest you of the command, but said that if Colonel M'Arthur went with you he must go as a volunteer; otherwise that he must return?

A. I recollect something of that kind.

Q. Do you not recollect stating to me that you would not consent to be commanded by Colonels Findley, Cass, or M'Arthur, after I had received letters from the Secretary at War?

A. That I could not, and would not: as I considered that the Secretary at War had decided the question in my favour.

Q. Did I not state to you that Colonels M'Arthur, Findley and Cass had commissions as full colonels, and that your commission was only that of lieutenant-colonel?

A. You did.

Q. Please to state what you know of the mutiny at Urbana?

A. When the troops were to march from Urbana, I was requested by an express to send a company of the 4th Regiment to compel some men of the Ohio volunteers to march. They had laid down their arms and refused to march.

Q. Do you recollect my sending for you about the 7th August, in the evening, when about leaving Sandwich, and mentioning my intention of concentrating the forces at Detroit; and also my intention to send you to open the communication with River Raisin; where the provisions were?

A. I recollect your sending for me and proposing the force I was to command.

Q. Do you not recollect my shewing you some letters from Generals Hall and Porter on the Niagara frontier, stating that General Brock was advancing with a considerable force; and that it was a reason I assigned for re-crossing?

A. I think that you shewed me at that time letters from General Porter and from some other general, perhaps General Hall, and either stated the contents or read them; that this was about the time the main body re-crossed; and that General Hull stated this as a reason for re-crossing.

Q. Do you recollect at what time General M'Arthur left you?

A. General M'Arthur left me, I think, on the afternoon of the 10th August. The men were very much fatigued.

Q. Was there not a severe storm of rain on the 9th, after the action; and were not your men much exposed to it?

A. The men were very much so, and fatigued. I had a relapse of the ague the day after the battle.

Q. Were you and your men in a situation to have proceeded?

A. Neither myself nor men were in as good a situation as we had been in; but we were able to proceed, and should have proceeded, if we had not been ordered back.

Q. State at what time you received the order to return, and why you did not proceed on the 11th?

A. Because I had no provisions. I have stated when I received the order.

Q. Did you not draw provisions at Detroit?

A. We took two days' provisions, which served for the 9th and 10th.

Re-examined by the Court.

Q. When General Hull informed you of his intention

to concentrate his force at Detroit, as you have mentioned, did he merely state his intention, or did he ask your opinion on the measure; and if he asked your opinion, what was it?

A. We conversed freely on the subject some days before the army moved, and I believe he asked my opinion. It was, not to re-cross; but, if he did, to leave one-half of the army on the Canada side.

Q. At what time did you leave the fort to go to the tent? at what time did you return; and when did you see the British troops in possession of the fort?

A. I went out of the fort between 10 and 11 o'clock; returned in about three-quarters of an hour; and saw about 100 British troops near the gate on the outside.

Q. When General Hull ordered you to the tent to assist in drawing up the articles of Capitulation, did he give you any directions to stipulate for the protection of such Canadians as had availed themselves of his proclamation?

A. I do not know that he did.

Q. Did any essential injury result to the service from the rank of the field officers not being settled; and did they not act at all times together when required so to do? If not, state the cases.

A. I do not recollect any movements being made when it was an impediment. General Cass and I went together most: sometimes he commanded; at others I did. I was on good terms with all the colonels. I thought I ought to rank above them.

Q. When you returned to the fort from the tent, had the American troops stacked or thrown down their arms: and was the fort at this time so crowded as not to admit of their acting with effect?

A. I think they had stacked their arms; and the fort was so crowded that they could not all have acted together with effect.

Re-examined by General Hull.

Q. Do you recollect that when I left you at the tent with the British officers, I told you I was willing to make the surrender the basis of a treaty, and that you must get the best terms you could?

A. I think you did.

Q. Did I not state to you as a reason for sending a flag, that I wished, in obtaining a cessation of hostilities, to gain time, in hopes of hearing from Colonels M'Arthur and Cass?

A. I think you had a conversation with me on that subject when the flag went out, and before we had any answer from the enemy.

Captain James Dalliby was again called to be examined by the Court, when General Hull made the following objection—

“I object to the examination of any witness after his testimony has been closed, and after he has been permitted to hear the examination of other witnesses.”

To consider which the Court was cleared.—The Court after due deliberation overruled the objection. The Court being opened, Captain Dalliby was examined.

Q. At what time did you receive directions from General Hull (after the army arrived at Detroit) to make preparations for fixing ammunition, making or repairing the gun carriages, and, generally, any preparation either for attacking the enemy or for the defence of Detroit?

A. As I have before stated, no alterations of great consequence were made at Detroit for its defence after the 4th July. On the 6th July some artificers who came from Ohio went to work to mount some heavy cannon on trucks for the batteries on the banks of Detroit; and some repairs were made to the gun carriages for the three brass six-pounders; and a small quantity of ammunition was fixed; but no order was issued, to my knowledge, to prepare the

heavy ordnance until some time after the army went into Canada. I have not the order, but I think it was dated the 15th or 16th July.

(The Court adjourned until Monday, 21st Feb.)

23d Day. Monday, 21st February, 1814.

The Court met, pursuant to adjournment; but General Dearborn and Colonels Fenwick and Bogardus being absent, (the two former through indisposition) the Court thought proper to adjourn until Wednesday morning, at half-past 10 o'clock.

24th Day. Wednesday, 23d Feb. 1814.

The Court met pursuant to adjournment, when, all the members being present, excepting Colonel Bogardus, the Court was cleared for the purpose of discussing some questions relative to the absence of that officer; and was afterwards adjourned till Monday the 28th inst. at half-past 10 o'clock.

25th Day. Monday, 28th Feb. 1814.

The Court met pursuant to adjournment, when all the members were present, excepting Colonel Bogardus: in consequence of whose non-attendance the Court adjourned until to-morrow at 11 o'clock.

26th Day. Tuesday, 1st March, 1814.

The Court met pursuant to adjournment, Colonel Bogardus, one of the members, being still absent—General Hull, after consenting to the Court's proceeding without

Colonel Bogardus, and that it should be at liberty to take such further order as it might think proper, entered upon his defence, and read several documents, for which see Appendix.

*Lieutenant Jonah Bacon, of the 4th Regiment U. S.
Infantry, sworn.*

Lieutenant Bacon said that he was Quartermaster of the 4th Regiment, and joined it at Urbana on the 9th June—that, after the march commenced, he had charge of the ammunition of the whole army—that, so far as his experience enabled him to judge, the march was conducted in the same manner as the march on the Wabash expedition was conducted, except that when encamped they were fortified by felling trees in the form of a breastwork in a square, according to the state of the ground—that, in two or three days after the march had commenced, orders were given that no fires should be made after sundown within the lines, but at a certain distance in front—that Captain Mansfield had at first charge of the ammunition, but that that charge was delivered to witness after two or three days' march—that, as soon as witness saw the cartridges, he thought them unfit for service, as the string was tied over the swell of the balls, so that they could not be prevented from falling out in seven instances out of eight—that at Solomon's Town, General Hull directed better cartridges to be prepared, in which service men were employed daily, as opportunity served—that, when the first battalion of the 4th Regiment was ordered to cross the river, witness was encamped with them on the esplanade, and heard General Hull give frequent orders, after the array had crossed into Canada, to Captain Thorpe who had charge of the artificers; that Colonel Miller had charge of the 4th Regiment at the same time; that 20 men were detailed at Detroit for several days previous to the capitula-

tion to make cartridges for the infantry at large ; that Captain Dalliby had no charge of the musket cartridges at this time, that the witness has any knowledge of—he did not interfere with the witness : that he does not recollect the quantity of cartridges made, but thinks about 106,000, and all under the direction of the witness, exclusive of those brought from Urbana and those at Detroit when the army arrived there ; that he does not recollect whether the men had worms to draw their cartridges or not, but many were drawn ; that they were fired off by the Ohio volunteers on their return from guard or detachment, as many were issued, almost as fast as they were made, on some days ; that witness reported this fact to General Hull ; that many of the covers of the cartouch boxes were insufficient to protect the cartridges from the weather, and many were consequently damaged by it ; that witness was employed sometime on the 15th and 16th during the cannonade, in issuing fixed ammunition, in the place of Captain Dalliby, and delivered some 24lb. cartridges several times ; that on the morning of the 16th, before day, witness informed General Hull that the 24lb. cartridges were nearly expended ; that Mr. M'Comb and witness examined with a dark lantern, and could find no more packed in the same kind of boxes ; that there was much confusion ; that General Hull gave witness directions to go to Captain Dyson and tell him not to fire the 24lb. cartridges, unless he was pretty sure of their taking effect and annoying the enemy's batteries, as those cartridges were nearly expended.

(Here Col. James Miller was again called and examined by Gen. Hull.)

Q. Did not Colonel Brush come up to the fort on the morning of the 16th, about the time I was informed that Knagg's men had joined the enemy ; and what did he say about the militia he commanded ?

A. After the flag had been sent out, and before any an-

swer had been returned to it, I recollect that Colonel Brush came to the fort and mentioned, or rather exclaimed, that by G—d, he believed his men would have run away to a man.

Q. Do you recollect at any time during the campaign, and before the 15th and 16th, any particular habit I had of chewing tobacco ?

A. I had very frequently seen it, and observed that you had a habit, when apparently engaged, of having tobacco in front of your mouth, and turning it about with your fingers; alternately exchanging the quid from the fingers to the mouth.

Q. Did you not observe this on the 15th and 16th ?

A. I did on the 16th; I do not recollect particularly on the 15th.

Q. Did there appear to be any more of this habit on the 16th than you usually observed ?

A. There was, but it might have been owing to want of rest and to fatigue.

(The Court adjourned until to-morrow at half-past 10 o'clock, A. M.)

27th Day. Wednesday, 2d March, 1814.

The Court met pursuant to adjournment, all the members being present excepting Colonel Bogardus.

Lieutenant Bacon's examination was continued.

He stated, that he frequently took powder from the magazine to fill cartridges, and that, three or four days before the surrender, he was directed by General Hull to accompany Captain Dyson and ascertain what quantity of powder there was in the magazine; which he did, and they found 42 casks of from 107 to 112lbs. which was reported

to the general. He cannot say what quantity of musket cartridges there was, as Captains Dyson, Whistler and himself issued them. Witness saw General Hull on the 15th and 16th August—there were some planks and boards lying between the guard house and the gate of the fort, but witness cannot say whether any of them formed a seat or not; he thinks he saw General Hull sitting on them, together with some officers, Doctor Cunningham and his lady, on the morning of the 16th, during the cannonade. Witness saw General Hull once on the 15th on the parapet, and once on the 16th; he saw him also in different parts of the fort during the cannonade. General Hull appeared engaged as usual, and agitated more than usual, on the morning of the 16th, but witness does not know the cause—he had no suspicion that it proceeded from personal fear; neither did he hear any officers at the time express an opinion that it did. Witness says that, after the shot from the enemy did any execution, most of the officers were on the side next the enemy's battery—they had nothing to do elsewhere. Witness said that, as to the subordination and discipline of the Ohio militia, they were militia without either—some were frequently disorderly—and that, one evening at Urbana there was a noise, when he (witness) ran out to enquire the cause, and saw some men of his regiment, who said it was only some of the Ohio militia riding one of their officers on a rail.

Lieutenant Bacon was cross-examined by the Judge Advocate, and stated, that the Ohio militia had been just called into the field, and were as well diseiplined as militia generally are; that he never was in any engagement with them during the campaign; that he does not recollect seeing more than 30 or 40 of them, who at one time, refused to cross into Canada with the army; and that he thinks he saw at another time 100; that, when the troops left Urbana, Captain Hull, as aid-de-camp, informed Colonel

Miller that there was another mutiny among the Ohio militia ; and gave him an order from General Hull to keep back his regiment (the 4th) to suppress it ; that the general soon after rode up to the head of the column and directed Colonel Miller to march in, saying, with some emphasis, " By G—d, Sir, your regiment is a powerful argument. Without it I could not march these volunteers to Detroit ;" that Captain Mansfield's, Captain Brown's companies, and some others, were under better discipline than the rest ; that the feeling and disposition of the men were generally very good ; that they seemed to be actuated by an enthusiasm highly creditable, and what witness said respecting their want of discipline and subordination, he attributes to no other cause than want of experience. Witness in answer to the cross-examination then stated, that the cannonade began about 4 o'clock in the afternoon ; that they continued to throw shells till between 9 and 10 o'clock at night, during which time witness was in the fort and saw General Hull on the parapet, but does not know how long he remained there ; that he was saying something about the field pieces that were getting up ; that this was after the firing had ceased ; that the fire of the enemy was principally directed at the battery, which was upwards of 200 yards from the fort—one shell came into the fort ; that the cannonading recommenced about day-break on the 16th, and wounded a man ; that witness saw General Hull on the parapet, looking towards the enemy ; and thinks there was firing at the fort before the American battery ceased firing.

Cross-examined by the Court.

Witness says it was early in the morning that General Hull was on the parapet, and before the shot killed Lieutenant Hacoks ; that General Hull ordered him (the witness) to have the tap of the drum beaten at day-break, to

turn out the men to man the works, which was done ; that there was some fixed ammunition for the cannon in the fort besides what was reported, but he cannot say how much—it was under charge of Lieutenant Dalliby ; that the men were taken off from making cartridges, to march to Brownstown under Colonel Miller.

Q. (By Gen. Hull.) Was I not during the cannonade on the 15th and 16th, the principal part of the time, out of the fort, at the batteries and with the troops ?

A. I cannot say.

Q. (By the Court.) At the time you saw General Hull at the parapet of the fort, did you observe any of the enemy's shot to come near the fort ?

A. I think not.

Here General Hull wished to put a question, relative to Major Snelling's testimony as to the British force coming against Detroit, which, after some discussion, was waved.

General Peter B. Porter sworn.

General Porter stated that, about the last of March or beginning of April, 1812, he was at the office of the Secretary at War with General Hull, after he had been appointed a Brigadier-General, and about the time he was to march to Detroit ; that he was frequently with the heads of departments, and had conversations as to the operations of the army, in case war should be declared, which was in contemplation.

General Porter was then examined by General Hull.

Q. Do you recollect whether I recommended that a navy should be formed on the lakes, to have a superiority over the British in case of war ?

A. I do.

Q. Did I state what that force should be, under those circumstances, and what number of men it should consist of ?

A. I recollect being at the war office, but not precisely the force proposed. The British force was stated.—I think the naval force which General Hull said should be constructed was a sloop of war of twenty guns, and that the brig Adams, a merchant vessel, which was then on the ways for repairs, should be taken into the service—the Secretary of the Navy proposed writing to Captain Stewart at Philadelphia to repair to Washington to concert measures.

Q. Was not a navy-agent appointed at that time for Lake Erie ?

A. There was—I was twice at the President's with General Hull, when the subject of a navy was talked over : at first it was agreed to have one, but afterwards it was agreed to abandon it, doubtless as inexpedient : the brig Adams was transferred by the Secretary at War to the Secretary of the Navy.

Q. Did I not go twice with you to the President's, to urge the expediency of a naval force on Lake Erie, in case of war ?

A. I understood so.

Q. Did I not state to the Secretary at War that 3000 men would be necessary ?

A. General Hull talked of provisions and the mode of supplying them, and then proposed 3000 men ; the Secretary replied that there would not be so many ; perhaps 2000.

Q. Please to mention what was said and done with regard to provisions.

A. I wished my brother, the contractor, to have some official notice of the necessary supplies for the army, that they might be prepared ; and requested the Secretary to transmit some written requisition to that effect ; this the Secretary declined, saying he would not. Upon this I was somewhat surprised and vexed, and retired, determining

to write to my brother, which I did. I left Washington on my way home, and at New-York heard from my brother, and wrote to the Secretary at War, who, in consequence of my expostulating with him, sent on a written requisition. In consequence of adverse winds the principal part of the provisions did not reach Detroit until after the war was declared.

Captain Thomson Maxwell sworn.

This witness stated that he joined the North-Western army as a guide and conductor of spies, at Stanton on the Miami; that he is well acquainted with the country from thence towards Detroit, about 150 miles of which route is a complete wilderness; there never had been a road cut through it—it was a swamp. He said, “I served five years in the French war as a private, some years as a non-commissioned officer; six years as an ensign and lieutenant in the Revolutionary war, and afterwards under General Wilkinson; and have been in 23 battles in the three wars. I saw General Hull on the 15th August, and after the cannonade commenced from our battery at Detroit: not having any thing to do, I went to the battery commanded by Captain Anderson, to see what effect our balls had upon the enemy. I saw General Hull riding on horseback, and cast my eye upon his countenance; his voice appeared cool and collected; I saw him ride off. This was towards evening, when the batteries were opened on both sides. I saw nothing like agitation. My reason for looking particularly at the general’s countenance was, because there was a clamour that he was intimidated.”—“General Hull conducted the army from Urbana with as much regularity and caution as I have ever seen practised.”—“I have lived thirteen years in Ohio, and have been engaged every year in droving cattle and hogs from thence to Detroit market; from 1000 to 1500 hogs annually, from 150 to 200lbs. weight each

(on a rough calculation;) and from 150 to 200 head of cattle—they were generally driven through the woods without any road.”—“I am at present 72 years of age, and am a forage-master in General Wilkinson’s army.”

The following documents were then read :

1. Interrogatories to, and answers from, Dr. Eustace, late Secretary at War.
2. Letter from Gen. Hull, from Detroit, dated 9th August, 1812.
3. Letter from do. to Gov. Meigs, dated 11th July, 1812.
4. Letter from do. to Col. Wells, dated 11th August, 1812.
5. Letter from do. to Gov. Meigs, dated 11th August, 1812.
6. Letter to Capt. Brush, dated 6th August, 1812.
7. Letter to Gen. Hull, from Col. Anderson, commanding the militia at River Raisin, dated 4th August, 1812, received the 12th of the same month.
8. Letter from Gen. Hull, to the Secretary at War, dated 8th August, 1812.

Captain Maxwell, again called by Gen. Hull.

Said that he saw General Hull for the first time at Trenton, on the 26th Dec. 1776, and at Princeton on the 2d Jan. 1777; believes he was a major—and saw him again after the army had been driven from Ticonderoga, and while at Beemer-heights, on the 19th Sept. 1777—he was then in action: he saw him again on the 7th [Oct. when the enemy were driven. Witness was then in Colonel Hall’s regiment from New-Hampshire. Witness never heard his (General Hull’s) character impeached during his life (meaning during the Revolutionary War.)

Lieutenant Lewis Peckham, of the 4th Regiment U. S. Infantry, was called and sworn.

Lieutenant Peckham said that he was in the fort of Detroit on the 16th August, 1812, and recollects speaking to Colonel Miller, who was within a few feet of General Hull, but does not recollect speaking to the general; that he told Colonel Miller he thought it would be well to spike the guns of the batteries which were silenced, lest they should be turned against the Fort of Detroit; that he recollects General Hull saying, "*are they coming?*" but does not know General Hull was informed that the enemy were coming.

(The Court adjourned until to-morrow at 10 o'clock.)

28th Day. Thursday, 3d March, 1814.

The Court met pursuant to adjournment, all the members being present, Colonel Bogardus excepted.

Lieutenant Peckham was again called, and said, "I saw General Hull frequently at Detroit, on the 15th and 16th August; and on the 16th, during the cannonade, he appeared to me to be much agitated; and the impression made upon my mind was, that he was under the influence of personal fear. He gave no orders, to my knowledge.

Major Jeremiah Munson called and sworn.

Major Munson, in reply to several questions put to him by General Hull, said, "I was present at a council of war held at Sandwich—General Hull read from a paper he held what were considered as his views of the course proper to be pursued at that time;—the general remarked considerably on the fall of Mackana, and on his not having received any information on the subject of co-operation from below;

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—there was a fortress erecting at Sandwich, I believe for the protection of the inhabitants. The leading features of the proposition committed to writing by General Hull, and made by him to the council, were, I believe, to re-cross the river with the main body of the army—to erect a fortress at Brownstown—to open the communication with Ohio—and wait for reinforcements. I recollect that the council were unanimous, with the exception of one or two, or perhaps more, in not adopting the general's proposition. General Hull stated that in his opinion Fort Malden was equal in strength to Stoney Point, when taken by General Wayne; that he had no heavy artillery mounted at that time; and that his opinion was, that it might be attacked in the same way, that is, at the point of the bayonet; and appealed to the officers for their confidence in the troops for such an enterprize. My own opinion was, that the troops were not generally calculated for that kind of service. I do not recollect the opinion of the other officers, excepting Major Tremble, who had confidence in the troops under Colonel M'Arthur, and expressed himself accordingly. The result of the council was, that they should wait several days for heavy cannon to be mounted and placed on floating batteries—scouring the river—opening the communication by land, and trying the strength of the enemy's works. General Hull accompanied his propositions with the promise to lead them on to the attack, if they had confidence in their troops."

Q. (By General Hull.) Did you not see me on the 15th and 16th; and did you observe me in such situations as could not be accounted for otherwise than by personal fear?

A. The general's situation was a critical one. He had a great deal of responsibility, and great care on his mind if he had any feelings. I saw nothing in his conduct but what might be accounted for without recurring to personal fear.

Examined by the Court.

“ I was present at the time when Captain Dalliby requested leave of General Hull to fire on the enemy. The general replied, “ Those who live in glass houses should not throw stones first;” alluding to the general’s situation. I heard something said about, “ *If the enemy would let me alone, I would let them alone.*”

Q. Did you see General Hull during the attack on the fort, about the time the officers were killed?

A. I went into the fort, about 15 minutes after Doctor Reynolds was wounded. I saw General Hull at that time, as I before stated.

Q. When you speak of General Hull’s situation, do you allude to what passed during the attack on the fort, or after the firing had ceased?

A. I did not see General Hull until after the cannonade had ceased.

Lieutenant Bacon again called, and examined by Gen. Hull.

Said that on the 8th August he drew two days’ provisions in advance for the detachment under Colonel Miller; and that he drew provisions for detachments of the 4th Regiment, by orders, sometimes general, sometimes from the colonel—those orders were sometimes accompanied by directions to have them cooked.

Colonel Kingsbury’s Affidavit was taken by consent; and read. (See Documents.)

Captain Samuel Dyson, 1st Artillery, sworn.

Captain Samuel Dyson said, I think General Hull gave orders, three or four days after his arrival at Detroit, to put in order, repair, and mount the heavy artillery, and that he made use of all the means in his power that circumstances admitted of—several artificers who did not be-

long to the army were employed in this work. I had charge, myself, of those things. In the short time allowed every thing was done that could be done. Some of the embrasures might have been repaired. I crossed the river with the army and in five or six days returned and took the direction of repairing guns, made a gin and the rope for a fall. I do not think more could have been done without more hands. The carriages (for howitzers) were broke in an experiment; they had been returned unfit for service a year before—we had to make new ones. Two bridges over Turkey-Creek and River Aux Canards were taken away by the enemy—the rivers could not be passed. The road from Turkey-Creek to River Aux Canards was so marshy that cannon could not be transported by land. I was at a council of war held at Sandwich in August. I commanded the batteries on the 15th and 16th, and recollect seeing General Hull pass my battery on the 16th, on horseback, before day: I perceived nothing unusual in his voice—this was before the cannonade. I was directed on the morning of the 16th not to fire so fast, but no reason was assigned. Our firing seemed to have very little effect; their ground was higher than ours. I believe we dismounted one of their pieces.

Cross-examined by the Judge Advocate.

Witness says that the expression, "*I am willing to obey any order,*" was made use of at the time an application was made by Major Jessup to General Hull for a 24 pounder to take to Spring Wells. General Hull asked witness if it could be taken down; he replied, it is doubtful, but "*I am willing to obey any order.*" Witness says that the enemy's batteries had very little effect on the American; that there were 200 rounds each for the two 24 pounders, which were intended to be taken to Malden; that 7 or 8 waggons were loaded with ball and ammunition at the time of the surren-

der; that at the time the enemy were erecting their batteries, they were not disturbed; that one of those batteries was a mortar battery, and was built under cover of a wooden house; that he, witness, was in command at Detroit from 1805 to 1808; that a great number of cattle and hogs were driven thither from Ohio; that the contractors got the principal part of their pork by that means; that the inhabitants could buy cheaper than they could raise them, and there was not enough raised to subsist the inhabitants; that the Canadian people were not industrious in cultivating their farms; that the enemy might have been prevented from working at their batteries in the day time; that he supposes the ammunition would have lasted for two or three days, constant firing; that there were 56 barrels of powder and plenty of ball, which were taken by order of General Brock; that he, witness, did not see Lieutenant Bacon on the 16th, and he received no order from General Hull not to fire unless with effect; that he cannot say what number of 24lb. cartridges there were; there were fifty rounds for each gun, of 9lb. and 12lb. of canister shot; that he does not know whether the 24lb. cartridges were taken from the waggons; that he thinks there were 100 rounds of 24lb. cartridges; that the boxes of ammunition which were in the waggons were not touched; that the ammunition used at the batteries was taken from a brick store, where it was put, and from thence taken away as the service required.

Willis Silliman was sworn.

Witness says that he lives in the same township with General Cass, (Zanesville, in Ohio) and corresponded with General Cass during the campaign; that he gave the first intelligence to Mrs. Cass of the fate of the U. S. army, and could not get the letter from her; that he is brother-in-law to General Cass by marriage with his sister; that

he has lost the letters from General Cass to him (the witness;) that one of them, the last, dated (he believes) the 12th August, 1812, says, " Our situation is become critical. If things get worse, you will have a letter from me giving you a particular statement of this business—as bad as you may think of our situation, it is still worse than you believe—I cannot descend into particulars, for fear this should fall into the hands of the enemy." Witness says that he had another letter, he thinks of the 3d August, saying, " I wish you to exert your individual exertions to hasten the march of the troops from your parts." (Ohio) " Men are (or will) become necessary for (general or) offensive operations—(witness does not know which term) Provisions are (or will become) necessary for their existence," (or that of the troops;) that in some letters from General Cass to witness, he said " Is there nothing to be done on the lakes to make a diversion in our favour?" In the same, or another, he says, " I can scarcely conceive the impression made by the fall of Mackana."

Peter Mills duly sworn.

Says, that he is from Zanesville, in the state of Ohio; that he heard some of the letters from General Cass to Mr. Silliman read; and that they confirm the statement made by Mr. Silliman to the court.

Daniel Conyers, of Zanesville, sworn.

Confirms in part the statement of Mr. Mills.

Willis Silliman again examined.

Says that he received a letter from General Cass, from Urbana, dated about the time General Hull took command of the army, which letter witness was directed to burn. It stated " General Hull has taken command of the army;

and I am sorry to say to you, that, instead of having an able energetic commander, we have a weak old man."

Col. Samuel Larned, of the 9th Regiment U.S. Infantry, sworn.

Colonel Larned said, "I was acquainted with General Hull during the Revolution, and never heard of any thing which placed him beneath any officer. His character was good.

(Adjourned until to-morrow at 10 o'clock.)

29th Day. Friday, 4th March, 1814.

The Court met pursuant to adjournment—all the members present, excepting Colonel Bogardus.

General Hull read a letter, dated Fort William, on Lake Superior, 19th July, 1812, from K. M'Kenzie, to Duncan M'Intosh, agent to the North-Western Company. (See Appendix.)

Gen. William North called and sworn.

Gen. North said that he was Captain and Inspector-General to the army of the U. S. and aid to Baron Steuben, and afterwards Inspector to the same army; that Gen. Hull's character in the army was that of an active intelligent officer; that the witness's situation in the army gave him an opportunity of knowing all the officers; and that General Hull always did his duty.

Col. Robert Troup was sworn.

Said that he was a Lieutenant in one of the New-York

regiments, having entered the army as such, and served during the campaign of 1776; that in 1777 he was one of Gen. Gates's family, as aid, with the rank of Major; and was with that general when he took command of the North-Western army; that soon after this he became acquainted with General Hull, then Major in a Massachusetts regiment commanded by Lieutenant-Colonel Brooks; that an intimacy soon grew up between General Hull and the officers of General Gates's family; that it was considered that General Hull's conduct during the campaign was that of a brave, active and intelligent officer; and he was always received by the commander in chief accordingly; that his conduct in the action of the 19th September was considered at head-quarters as being very gallant; and that no officer was more respected or more esteemed at that time than General Hull.

General Hull then proceeded to read other documents and evidence, viz.

Affidavit of Gen. Heath, of Massachusetts, dated 20th Dec. 1813.

Letter to the Court from Francis Tufts (dated Boston, Feb. 3, 1814) formerly an adjutant in the army of the U. S. in the Revolutionary War.

Another letter, dated 31st Jan. 1814, from Capt. Abraham Childs, who had been under the command of General Hull in the Revolution.

A Letter from Adjutant-General Brooks, of the Revolutionary army, dated Feb. 4, 1814.

A Letter dated 20th Feb. 1813, from Henry Sewall, General in Massachusetts, who also served in the Revolutionary War.

A Letter dated 15th Feb. 1813, from Col. Peters, addressed to Brig. Gen. Hampton, President of the Court-Martial.

A Letter from Major Barmister, dated 17th Feb. 1813, from Brookfield, to the same.

A Letter to the Court, from Col. M'Crackan, dated 17th Feb. 1814.

A Letter from Lieutenant-Colonel Huntingdon, Adjutant-General in Connecticut.

Deposition of Col. Elijah Sandford, dated New-Haven, January, 31, 1814.

Deposition of Col. Samuel Hubbell, of Bridgeport, dated 20th January, 1814.

Lieutenant Lemuel Clift called by Gen. Hull and sworn.

Said that he was in the whole of the Revolutionary war, and was acquainted with General Hull, who always sustained the character of a good officer, and one of the best from the state he belonged to.

Gen. James Taylor, of Ohio, called on the part of the U.S. and sworn.

General Taylor stated, " I was Quarter-Master-General to the North-Western army, appointed by Gov. Meigs, and confirmed by General Hull and the Secretary at War. I was one of Gen. Hull's council, and recollect that the impression made on my mind, as well as upon others to whom the letter from the Secretary at War, dated 18th June, 1812, was shewn, was, that war was inevitable, and that it was substantially though not formally declared. I was present when General Hull conversed with Captain Chapin, who commanded the vessel which was sent from the Rapids to Detroit; Chapin talked about dining with the British officers, and asked an exorbitant price for his boat: I told General Hull (whom I called out) that I suspected the vessel was sent there to entrap them, and advised that she should not be employed, but that the effects should be sent by waggons; General Hull, however, looked to the ex-

pense; and said he did not know much of Chapin, but he knew him to be an American and believed him honest. Chapin reduced his price from 150, to 60 dollars, and was employed. I did not send my own baggage, but sent the stores of the department by order; I had some conversation with a Major Whipple, and others, and being informed that the vessel need not go up on the Malden side, I was induced to believe that the danger was not so great as I had supposed; but after the baggage was put on board and the army had marched, I learned that the vessel must go under the walls of Malden; and, considering that she had on board uniforms and other military stores, I then entertained no doubt but she would be detained, and expressed my opinion fully, but not in the presence of General Hull."

Witness said that he did not believe that much was done towards preparing cannon and ammunition, until after Col. Miller's return from Canada, that was, about the 25th July; that, from the best information he could obtain, there were at Malden from 90 to 120 regulars, about 500 militia, and from 500 to 600 Indians, and that the militia were continually diminishing, about 350 of whom came and took protection from General Hull under his proclamation; that he was informed and believed that the Indians became timid and were skulking about; that there were several councils held, in which there were few exceptions to the general opinion of the officers, that the army should be marched against Malden; that he distinctly recollects that Colonel Miller said he would answer for his men (the 4th) that Colonel Findley had some doubts as to his; (militia) that Colonel M'Arthur said he had no doubts; he did not like much to boast of himself or of his men, but would have no objections to trying them; Colonel Cass's reply witness did not recollect. (These opinions were given on the question whether Malden should be at-

tacked without waiting for the heavy artillery, and in answer to General Hull's inquiries whether the officers commanding corps could depend upon their men in such an attack.) That at that time witness was very unwell, but, being at Detroit for the benefit of his health, went every day to the performance of his duty as quarter-master-general, and heard General Hull express his anxiety to have the heavy cannon prepared as fast as possible; that Captain Stack, a good officer, was employed by order of General Hull; that witness was authorized by Government to provide means adequate to the supply and transportation of the army, and had liberty to draw, and never met with any demur to the payment of his bills.

Witness said that the order to retreat from Canada excited very general and almost universal disapprobation among the troops; that after the orders were issued to retreat from Canada, the officers, and witness in particular, expostulated with General Hull, and strongly urged him not to retreat, observing that the nature of his proclamation offering protection to the inhabitants, was such as would materially injure any other army which might come, if those inhabitants who had come in under that proclamation should be deserted; stating that the Indians could not collect such force as he apprehended, from the want of provisions necessary for their march through the woods; and finally urging him to suspend the execution of his order until the next day, that means might be taken to remove the waggons and other public property from Canada; the General, however, persisted in his determination, stating that, from the best information he could collect, there were from 5000 to 7000 Indians and 2000 Engagés of the North-Western Company, who would probably come down from the north. He never produced or mentioned any thing of M'Kenzie's letter to M'Intosh at any of the councils. He stated that the enemy would come up from Fort

George, which witness did not then believe would be the case, although they since have brought their forces from that quarter. General Hull read the letter he received from General Porter, after the army had re-crossed to Michigan. After the flag was hoisted, and before the capitulation, the witness saw the Michigan militia drawn up in line, and, as far as he could learn, the men were dissatisfied and disgusted at the idea of a surrender.

Witness says that he saw the British officers come to the fort at Detroit—he was then at the gate; that General Hull was about taking them into the fort, but was advised not to do so, and then directed them to his marquee: that General Hull sent witness for Colonel Findley, whom and witness he wished to act as commissioners, and to draw up the terms of capitulation; they both replied that they did not agree with him as to the necessity for it, and therefore could not act; and the general expressed his sorrow that they did not join him in opinion as to the only measure that could be adopted.

Witness says that he was present when General Hull received information that the Indians had passed over from Brownstown to Malden, when he expressed great regret, and was apparently much agitated. He says that he was also present when information reached General Hull that Colonels Cass and Miller had taken the bridge at River Aux Canards; that the General was very much displeased and irritated at their conduct, and said he was surprised that gentlemen would attack the enemy at that time, when he had not his heavy artillery ready, and that he only sent them down for observation;—and that it was at the urgent solicitation of the witness and General Findley that he consented that they might retain the bridge, and at their own responsibility.

Witness also says that about the 9th of August he proposed to General Hull to allow him (the witness) to apply

to Governor Scott for the Kentucky quota of the 100,000 militia ordered by the General Government ; stating as his reasons for making the application, that, if the force General Hull expected should arrive, he would still want men ; and that Governor Scott was a revolutionary officer, and would not be afraid to take upon himself the responsibility ; and would, (witness thought) send them ; that General Hull in reply said, that when the troops he had sent for should arrive from Kentucky and Ohio, he would have men enough ; and he declined making the application ; that then witness stated to Gen. Hull, as an additional argument to induce him to send for the Kentucky quota of militia, that they would enable him to re-occupy Canada, keep open the communication with Ohio, and resist the force that might come against him from above and below.

Witness also says that he saw General Hull several times on the 15th and 16th August, and cannot say that the general's appearance made any impression on his mind on the 15th, as indicative of personal fear ; that when witness saw him early in the morning of the 16th, he appeared pensive and very low-toned : he did nothing to cheer the men or keep up their spirits : his countenance was dull, and his whole conduct made an impression on the mind of the witness that he was not as firm as he ought to have been ; his position was very near the gate and towards that part of the fort least exposed :—that General Hull sent an order to Colonel Findley to move from the upper to the lower side of the fort, without giving any directions where the troops were to station themselves, or how they were to act ; that while witness was with him, the general was informed that the British were preparing to cross, and he gave no order that they should be met ; that witness saw the tobacco-spittle which was rubbed over his face ; and that he thinks General Hull was under the influence of personal fear—witness thinks that the force under Colonel Bush consisted of about 300 men.

Cross-examined by Gen. Hull.

Q. Did I not give you an order on the 14th August to furnish pack-horses and provisions to the detachments under Colonels Cass and M^r Arthur?

A. You did, and it was done.

Q. Do you know whether the provisions were furnished: and, as Quarter-Master-General, did you not consider it your duty to provide transportation for baggage, without any farther special order from me?

A. I thought it was my duty.

Q. Did you not advise employing Chapin's vessel to take the baggage from the Rapids?

A. The first intimation I had of sending the baggage was from General Hull, who desired me to make a contract with Chapin upon the most reasonable terms possible; and if he would take a reasonable price to employ him, and not otherwise.

Q. Who informed you that the vessel could not go on the American side?

A. I think I understood so from Chapin.

Q. Had you not authority to supply provisions, among other things?

A. I had not; only those articles within my department.

Q. Did I not tell you to take charge of the property at Fort Hope, under cover of the cannon?

A. You did.

Q. Did I not tell you that Col. Anderson had informed me by letter that a large body of Indians was expected from the Mississippi and the westward?

A. I think you did.

Q. You say that the British were in the habit of detaining vessels: did your apprehensions on sending the vessel arise from that circumstance, or from an impression that the declaration of war had been actually received by the British governor?

A. My apprehensions were grounded, not so much upon the knowledge of the war by the British, as upon the circumstances I mentioned; that, as she had clothing and warlike stores, they would detain her under the expectation of war.

Q. Did you see any thing exceptionable in my situation on the morning of the 16th in the fort?

A. I did not.

(Adjourned to the next day.)

30th Day. Saturday, 5th March, 1814.

The Court met pursuant to adjournment, all the members being present, including Col. Bogardus; who appeared and stated that he had been prevented from attending the Court by indisposition. By consent of Gen. Hull the minutes of the Court were read to him, and it was ordered that he should be again admitted to his seat.

Col. Richard Platt, called on the part of General Hull, was sworn.

Q. Were you in the Revolutionary army; and what rank did you hold?

A. I was in it from the beginning to the end. I commanded a company in 1775, and was Brigade-Major to General M'Dougal in 1776; and subsequently Deputy Adjutant-General and Deputy Quarter-Master-General to the main army of the United States under General Washington.

Q. Were you acquainted with me? Do you recollect my commanding in the lines?

A. I knew General Hull perfectly well when Captain under Colonel Webb, and in General M'Dougal's brigade.

My own I know him as a Major—his character stood in
cardinal points; intelligent, brave, active, and enterprising.
I knew him afterwards as Lieutenant-Colonel. He was
in 1776 selected by me to command on the lines, when the
service required a man of the first talents: he conducted
himself highly to the satisfaction of the general and of every
one. He remained until the enemy came with a large
force and he was ordered to retire.

Lieutenant Aaron William Forbush, 1st Artillery, called
by General Hull, sworn

Q. Were you in the vessel that went from the Rapids to
Detroit?

A. I was in the vessel from the Rapids on the 1st of
July.

Q. Did you know of any directions being given by me?

A. On the morning of the 1st of July, Doctor Schuyler
principal surgeon, was directed to take the sick part of the
hospital stores, and as many of the most sick as the
vessel could carry. I was ordered afterwards, in General
Hull's tent with Dr. Edwards. Captain Chapin was there.
General Hull recommended him to go by the American
(or western) channel. Captain Chapin did not consider
that there was any danger there was no positive order.
Captain Chapin told the general that the (western) channel
was very difficult, that the wind was fair, and as he had
been at Michilimackinac the day before, he did not apprehend any
danger of capture. The Hurons and Cherokees were in the
channel, the Hurons got under way, when we got to the
point, I asked the captain why he did not take the Detroit
side. He said that the wind was fair, it blew fresh, and
there was no order. There was no apprehension of danger
from capture entertained either by myself or by any other
person on board. I, for myself, did not think there could
be any, as I had heard a few days before of the arrival of

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an express from Washington in eight days; and I thought that the general would not have sent us, if he had known that war was declared.

Cross-examined by the Judge Advocate.

Q. What capacity were you in?

A. I was then Sergeant in the 4th Regiment of Infantry, and had charge of the sick and of the hospital stores.

Q. Did the enemy permit you to go about the works at Malden?

A. They did; I was little restrained.

Q. Could you ascertain their force?

A. I took every opportunity I could of counting them. The regulars when I arrived were from 80 to 100—from 250 to 300 militia, including those in the boats; perhaps 300 to 350 Indians; but it was difficult to ascertain this with any precision.

Q. What number of troops arrived at Malden?

A. There were in the Hunter 30 regulars, and in the Lady Prevost from 30 to 40 regulars; this was about the 20th July; and after the battle of Brownstown there were about 300 in red coats from Fort Mifflin. From the 20th to the 30th July many of the militia went to their farms and returned, making as many as before, exclusive of those in red coats—say 900 were the whole force at Malden. At the time of the battle of Brownstown there were only a sergeant and 12 men in the fort.

Q. How many crossed to the battle of Brownstown?

A. About 700, regulars, militia, and Indians, exclusive of the Brownstown Indians.

Q. Were you at Malden when Colonel Gass and Miller took the bridge at Point Canada, and what troops were there then?

A. I was. The troops were mostly moved out of the town—there was a good deal of confusion in the town,

moving effects. The Queen Charlotte came to the wharf and took in the baggage and women; she afterwards had her topsails loose, ready to sail.

Q. What number of vessels was there when you were there?

A. The Hunter and the Queen Charlotte; and the Lady Prevost, which was launched ten or fifteen days after I arrived there.

Q. What was the state of the troops?

A. In general they were fit for duty, and in good health.

Q. (By Gen. Hull.) What number of Indian warriors did you ever count on any one day?

A. The greatest number was about 600, on the 15th August: they were passing up, some on horseback, some on foot.

Question by the Court.

Q. Did you ever write to any American officers of the force of the enemy?

A. I did, to Captain Burton.

Q. Could the vessel have escaped if you had gone through the channel on the American side?

A. It is difficult to answer, as the Hunter was in the channel.

Colonel Solomon Rensselaer called by Gen. Hull, and sworn.

Q. Were you in the army under General Wayne?

A. I was Captain of dragoons in 1794 under him.

Q. Do you recollect the order of march by that army; and is the one exhibited like it?

A. This order appears similar.

Q. Was there any other order of battle or of march; and was it not considered the best?

A. It was, as far as I recollect.

Colonel Joseph Watson called by Gen. Hull, and answers.

Q. Were you in the Revenue Department?

A. I was Lieutenant-Colonel in the Michigan militia, Aid to the Commander in Chief of the Territory, and in the Revenue Department at Detroit—I knew the Squygega packet, Captain Chapin.

Q. Was there not a channel west of Bois-blanc Island for that packet?

A. There was a channel between Gros Isle and the American shore.

Q. Did you take a census in 1810; and what was the number of inhabitants in Michigan?

A. I did. There were 4762 souls, including the district of Detroit, 165 souls; and that of Michilimatanac, 615.

Q. How were they situated as to local situation, and their distance from Detroit?

A. The settlements in that country are generally made on the navigable waters.

Q. What number were on the River St. Clair and the Huron district?

A. The Huron district, consisting of the Lake and River St. Clair and Huron of the Lake, 480.

Q. What number in the District of Detroit?

A. That district extended 15 miles northward to Milk River, and southerly 22 miles, and contained, including the garrison, 2227 souls.

Q. What number on the River Raisin and Erie?

A. The district of Erie contained 1340. This was in an extent from the Miami of the Lake to the southerly boundary of the Detroit, near the River Huron of the Lake.

Q. How long have you lived at Detroit, and in the Territory of Michigan?

A. I was six years and sixteen days, to the time of the surrender.

Q. Did you not, in taking the census, go to every house, and inquire as to the products of the country?

A. I endeavoured, at the request of General Hull, the Governor of the Territory, to get it from the heads of the families in the district of Detroit; and by estimate from the other districts.

Q. Did the district produce sufficient for the consumption of the inhabitants?

A. There are great quantities of flour and whiskey brought from New-York and Pennsylvania, and of cattle and hogs from Ohio—these last are purchased by the inhabitants for their consumption, and, in times of peace they are also purchased by British agents and carried to Malden—the cattle and hogs were consumed by the inhabitants.

Q. Were you with the Michigan militia under Colonel Brush, at the north-east gate of Detroit, on the morning of the 16th of August?

A. I was. I saw General Hull there on horseback about 4 o'clock in the morning, before the cannonading.

Q. What number of militia had Colonel Brush under his command?

A. Probably 150.

Q. How did I appear on that morning?

A. You appeared perfectly tranquil and collected. You gave some orders.

Q. Did I not use every exertion for offensive and defensive operations?

A. No person could have been more active and industrious, at the time of your arrival at Detroit; and it appeared to me that system only was wanting to give the desired effect.

Q. Do you mean by want of system, the want of it in any particular departments?

A. There was a want of system in all the departments of the army, owing to too great indulgence on the part of General Hull.

Q. Did I not state before leaving Canada, that I had received information of a reinforcement being on its way from Fort Erie, and that I was to have no co-operation at Niagara?

A. On the 7th August General Hull told me, that he contemplated leaving Canada, in consequence of reinforcements having arrived and being on their way to the enemy, and in consequence of information that Major Chambers had arrived from Fort Erie with a considerable force, and of their being no co-operation on the Niagara frontier. I took this opportunity of mentioning to General Hull the miserable and critical situation to which the inhabitants would be exposed, in consequence of the evacuation, by his proclamation offering protection; his reply was, that of two evils he must choose the less; and that was to concentrate his force for the defence of Detroit, and to open the communication with the River Raisin.

Q. Did you not see me on the 10th August?

A. I saw you on that day, and recollect your saying, "The British have demanded the place," and your adding, with some firmness, "If they want it they must fight for it."

Questions by the Court.

Q. Were you in such a situation as to be able to ascertain the fact of *system* being wanting in all the departments of the army? If so, what was it?

A. I was with the army from the time it first crossed to the 8th August, employed in issuing protection to the inhabitants. I did all my business in the general's quarters until within a few days before we recrossed, then I did it at a small tent near his quarters. This gave me an opportunity of knowing that the general had to enter into the minutiae of the different departments, and which I attributed alone to want of system on his part—knowing the zeal and integrity of the heads of the different departments, I sup-

posed the general interfered in the different departments unnecessarily.

Q. What number of the inhabitants of Canada received protection?

A. From the records I kept, and as nearly as I can recollect, 36%, including deserters.

Q. (By Gen. Hull.) Who was at the head of the medical department?

A. Dr. Forster, who was taken sick shortly after I knew of his arrival at Detroit, and died.

Q. Who was at the head of the engineer department?

A. Lieutenant Partridge, who was sick during the greatest part of the time that the army was in Canada. I have heard of his death also. I do not know of his doing any duty.

Q. Did you not consider my interfering in the medical and engineer departments as owing to the sickness of the heads of those departments?

A. I did not. I thought it was owing to a great anxiety for the service which was usual with you.

Q. As nearly as you can recollect, how many of the Canadians who took protection were inhabitants not attached to the army?

A. I could not state with precision—the largest proportion were deserters from the Fort of Malden.

Brevet-Major John Whistler, 1st Regiment of Infantry, called on the part of the U. S. sworn.

Major Whistler said, "I was in command at Detroit when General Hull arrived with the army there in 1812; Captain Dyson and I waited on the general and were asked for a return of the state of the garrison as to ordnance stores—I handed him one for the month of June, previous to the army's crossing into Canada. I think there were 100 barrels of powder, said to contain 100 lbs. each; there

were also 5400 and some dozen of cartridges for muskets —there were, I think, 48 barrels in the fort on the morning of the 16th. I saw Captain Hull on that morning (after the men were killed, General Hull being near the gate) take a dirty towel so fix as a flag of truce on one of the boarding pikes, which I thought too dirty; he then brought out a table-cloth or a sheet, which I thought would be too large, and said it should not go up, as the American ensign must be lowered, and the enemy might suppose we had surrendered. This passed so near General Hull that he must have heard the whole of it; he, however, said nothing—Captain Bartlett hoisted it on one of the battlements. General Hull was leaning on the side of the door near the enemy, and in a secure part except against shells. I went, some days before the army re-crossed, with a Mr. Baird, the deputy-contractor, to a store which held the provisions of the army; and saw, and helped to count, between 200 and 300 barrels of flour, 68 barrels of pork, 14 or 15 barrels of salt beef, and 50 barrels of whiskey. I kept the key of the store at my quarters. I think there were a couple of waggon loads taken out at different times, before the surrender—there might have been more, as they could get the key in my absence. There was one waggon load of flour brought there before the capitulation; the store was furnished with some fresh beef from the time Mr. Baird and I counted these provisions—Mr. Baird might have furnished salt provisions from another store. General Hull, I think, told me of 800 or 900 sheep taken on the Canada side, which he put under my charge—there was an old man who came with them, their former keeper. Some of them were taken for the use of the garrison to my knowledge, reports of them being made to me every night—some of them were killed by the enemy's shells. I went to Detroit in 1797, and am generally acquainted with the country: If the provisions could have been collected with

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the other resources of the country, the army might have been subsisted for 2 months. There were large crops of wheat in 1812.

Questions by the Court.

Q. Did you see General Hull in the fort on the morning of the 16th, during the cannonade?

A. I did.

Q. Did, or did not, the situation and appearance of the general induce you to think at the time that he was under the influence of personal fear?

A. It did.

Cross-examined by General Hull.

Q. What numbers of Ohio militia were left at Detroit when the army crossed into Canada?

A. There were, I think, 68 in the fort who refused to cross. I do not know how many were in the town.

Q. Do you know whether I made any exertions to have the carriages for the cannon repaired?

A. I do. I saw General Hull frequently before sun up in the morning: he was active in his exertions for that purpose.

Q. If the army had been confined to the town and fort of Detroit, could the resources of the country have been collected which you speak of? and, if the provisions had been taken for the army, would it not have left the inhabitants destitute?

A. If they were confined they could not—the inhabitants would not have suffered for two months.

Q. While you were at Detroit were there not large quantities of beef and pork brought from Ohio?

A. There were. It was not all purchased by the inhabitants—Some by M'Intosh and Patterson, Indian traders, and other persons on the Canada side of the river.

The Court adjourned until Monday, at 10 o'clock.

31st Day. *Monday, 7th March, 1814.*

The Court met pursuant to adjournment, all the members present.

Gen. Hull read the proceedings of a council of war held at Detroit on the 9th of July, 1812, and an account of the quantity of the respective kinds of provisions then on hand, which was admitted by the Judge Advocate, viz :

125,000 rations of flour,
70,666 do. of meat,
150,000 do. of candles,
110,000 do. of whiskey,
300,000 do. of soap,
12,800 do. of vinegar.

Also an order on the contractor for 2000 rations complete for Colonel Miller's detachment, on the 10th of August, 1812, out of which the detachment brought back 1919 rations of flour, 533 do. of meat and 396 do. of whiskey. Also an order on the contractor of the 9th of August, to issue to the detachment under Colonel Miller 600 rations of flour and pork, and 1200 do. of whiskey, to be taken by Colonel M^rArthur—indorsed "delivered 413 lbs. of flour, 600 rations of bread, 600 ditto of meat 1200 do. whiskey."

Provisions on hand at Fort Detroit on the 28th July, 1812.

70,000 rations of flour,
21,000 do. of salted meat,
150,000 do. of whiskey.

I certify that the above statement was handed to General Hull by my order, containing the provisions in the contractor's store.

(Signed)

DAVID BEARD,
Contractor's Agent.

General Hull stated that he had no evidence to adduce, but what was by way of depositions taken out of court by consent of the Judge Advocate, and therefore requested time to make his defence, which he would do by Friday next, until which time the Court accordingly adjourned, to meet at 10 o'clock.

32d Day. Friday 11th March, 1814.

The Court met pursuant to adjournment, all the Members present.

General Hull appeared with his counsel, and requested farther time might be allowed him to prepare his defence; upon which the Court adjourned until Tuesday next, the 15th inst. at 10 o'clock.

33d Day. Tuesday, 16th March, 1814.

The Court met pursuant to adjournment, all the Members present.

General Hull commenced delivering his defence, which he read until 2 o'clock, when he requested that the Court might be adjourned, which was done until to-morrow at 11 o'clock.

34th Day. Wednesday, 16th March, 1814.

The Court met pursuant to adjournment, all the Members present.

The affidavit of Captain Hull was read in evidence; after which General Hull continued to read his defence.

(The Court adjourned until to-morrow at 11 o'clock.)

35th Day. Thursday, 17th March 1814.

The Court met pursuant to adjournment, all the Members present.

General Hull continued to read his defence.

(The Court adjourned until to-morrow, at 11 o'clock.)

36th Day. Friday, 18th March, 1814.

The Court met pursuant to adjournment, all the Members present.

General Hull closed his defence : whereupon the Court, after deliberation, determined to hear the Special Judge Advocate in reply, which he stated he could not do before Wednesday, the 23d inst. to which time the Court adjourned, to meet at 11 o'clock.

37th Day. Wednesday, 23d March, 1814.

The Court met pursuant to adjournment, when the Special Judge Advocate delivered a speech of considerable length, in application of the evidence on the part of the prosecution, after which the Court adjourned until to-morrow at 10 o'clock.

38th Day. Thursday, 24th March, 1814.

The Court met pursuant to adjournment and had all the proceedings read. A question had previously arisen, whether the doors should be closed. It was determined that the citizens might be present.

(For the Charges against Gen. Hull, and the further proceedings of the Court, see the following Appendices.

APPENDIX.

The United States of America,
against
Brigadier General WILLIAM HULL. }

*Charges exhibited against Brigadier-General WILLIAM HULL,
of the Army of the United States, by order of the Secretary of
War, viz.—*

I. CHARGE.

TREASON against the United States, between the ninth of April and the seventeenth of August, one thousand eight hundred and twelve.

FIRST SPECIFICATION.

In this—That on the first day of July, in the year one thousand eight hundred and twelve, before that time and ever since, an open and public war was and is yet carried on and prosecuted by and between the United States of America and their territories, and the United Kingdom of Great Britain and Ireland and the dependencies thereof: And that William Hull, a brigadier-general in the army of the United States, a citizen of the said United States, owing allegiance to the said United States, and late commander of the north-western army of the said United States, well knowing the premises, and traitorously and unlawfully designing and contriving to send and convey intelligence to the said enemies of the said United States, touching a declaration of war by the said United States against the said United Kingdom of Great Britain and Ireland and the dependencies thereof, and also touching the expedition on which the said north-western army, under his command as aforesaid, was employed; and also touching the numbers, state and condition of the said north-western army, in prosecution of the said traitorous and unlawful design, on the said first day of July, in the year aforesaid, at the Rapids of the river Miami of the Lake, in the Territory of Michigan, (the said William Hull then and there being a brigadier-general in the army of the United States, and being then and there the commander of the said north-western army as aforesaid,) did traitorously hire, or cause to be hired, an unarmed vessel, with the pretended purpose of transporting therein certain sick soldiers, and the principal part of the hospital stores belonging to the said north-western army, from the said Rapids of the river Miami of the Lake to Detroit, in the said territory of Michigan, but in truth traitorously contriving and intending, that the said unarmed vessel, together with all persons, papers and things put on board thereof, should be captured

by the enemies of the said United States, on the passage of the said unarmed vessel from the said Rapids of the Miami of the Lake to Detroit aforesaid, in the territory of Michigan aforesaid: And that the said William Hull, in the further prosecution of his said traitorous and unlawful design and contrivance, (being then and there a brigadier-general in the army of the United States as aforesaid, and being then and there commander of the said north-western army as aforesaid) did then and there traitorously put, or traitorously cause to be put on board of the said unarmed vessel, a trunk containing, (among other things,) the official correspondence of the secretary for the department of war and the said brigadier-general William Hull, as well touching the expedition on which the said north-western army under his command was, as aforesaid, then employed, as touching a declaration of war, by the said United States, against the said United Kingdom of Great Britain and Ireland, and the dependencies thereof, and also certain official muster-rolls, reports, and returns of the numbers, state and condition of the said north-western army, under his command as aforesaid: And that afterwards, to wit, on the second day of July, in the year aforesaid, the said unarmed vessel, so as aforesaid traitorously hired, or caused to be hired, by the said brigadier-general William Hull, on its passage from the rapids of the Miami of the lake to Detroit aforesaid, was captured by the said enemies of the United States, having on board thereof, at the time of the capture, the said trunk containing the said correspondence, as well touching the said expedition as the said declaration of war, and the said official muster-rolls, reports and returns of the numbers, state and condition of the said north-western army, (together with certain sick soldiers, and the principal part of the hospital stores belonging to the said north-western army): And that by means of the said capture, and in fulfilment of the said traitorous and unlawful design, contrivance and intendment of the said Brigadier General William Hull, the said correspondence, as well touching the said expedition as touching the said declaration of war and the said official muster rolls, reports and returns of the number, state and condition of the said north-western army, (together with certain sick soldiers, and the principal part of the hospital stores of the said north-western army) came to the possession, knowledge and use of the enemies of the said United States, giving information and intelligence to the enemies of the said United States, as well touching the said expedition, as touching the said declaration of war, and, also, touching the numbers, state and condition of the said north-western army of the said United States, then and there under the command of the said Brigadier General William Hull as aforesaid: Whereby the said William Hull, on the said first day of July, in the year aforesaid, at the Rapids of the river Miami of the Lake aforesaid, in the territory of Michigan aforesaid, (being then and there a brigadier-general in the army of the United States, and being then and there com-

mander of the said north-western army as aforesaid, and being then and there a citizen of the said United States, owing allegiance to the said United States,) did then and there traitorously and unlawfully hold correspondence with, and give intelligence to, the enemy, and did then and there traitorously, by the means aforesaid, adhere to the enemies of the said United States, giving them aid and comfort.

SECOND SPECIFICATION.

And also in this : That afterwards, and during the said war, so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, the said north-western army of the said United States, under the command of the said brigadier-general William Hull as aforesaid, having entered the British province of Upper Canada, and having established a military post at or near Sandwich, in the said British province of Upper Canada, which it was the duty of the said brigadier-general William Hull to maintain, in order that the said war might and should be advantageously carried on and prosecuted, in behalf of the said United States, and more especially that a certain British fort called Malden, otherwise called Amherstberg, in the said British province of Upper Canada, occupied by the enemies of the said United States, might and should be advantageously attacked and taken, by the said north-western army of the said United States, under the command of the said brigadier-general William Hull, as aforesaid : Yet the said William Hull, (a brigadier-general in the army of the said United States, a citizen of the said United States, owing allegiance to the said United States, and commander of the said north-western army of the said United States as aforesaid,) well knowing the premises, on the eighth day of August, in the year one thousand eight hundred and twelve, at Sandwich aforesaid, in the British province of Upper Canada aforesaid, did then and there traitorously and unlawfully conspire and combine with certain enemies of the said United States, (whose names are unknown,) to quit and abandon, to the enemies of the said United States, the said military post, established by the said north-western army of the said United States, at or near Sandwich aforesaid, in the British province of Upper Canada aforesaid, and to prevent the said British fort called Malden, otherwise called Amherstberg, from being attacked and reduced, or an attempt being made to reduce the same, by the said north-western army of the said United States, under the command of the said brigadier-general William Hull as aforesaid : And that the said brigadier-general William Hull, (then and there being a brigadier-general in the army of the said United States, then and there being commander of the said north-western army of the said United States, and then and there being a citizen of the said

United States, owing allegiance to the said United States,) in prosecution of the said traitorous conspiracy and combination, did then and there traitorously quit and abandon, and did then and there traitorously cause to be quitted and abandoned, the said military post, established by the said north-western army of the said United States as aforesaid, at or near Sandwich aforesaid, in the British province of Upper Canada aforesaid, and did then and there traitorously neglect and omit to make the proper preparations for attacking and reducing, or attempting to reduce the said British fort called Malden, otherwise called Amherstberg, and did then and there traitorously prevent the said British fort called Malden, otherwise called Amherstberg, from being attacked and reduced, or an attempt being made to reduce the same, by the said north-western army of the said United States, then and there under his command as aforesaid: And in farther prosecution of the said traitorous conspiracy and combination, did then and there traitorously march, withdraw and remove, and traitorously order to be marched, withdrawn and removed, the said north-western army of the said United States, from the said military post, established by the said north-western army of the said United States at or near Sandwich aforesaid, to a place out of the said British province of Upper Canada, to wit, to Detroit aforesaid, in the territory of Michigan aforesaid: Whereby the said William Hull, on the eighth day of August, in the year one thousand eight hundred and twelve aforesaid, at Sandwich aforesaid, in the said British province of Upper Canada, (being then and there a brigadier-general in the army of the said United States and being then and there commander of the said north-western army of the said United States, and being then and there a citizen of the said United States, owing allegiance to the said United States,) did then and there traitorously conspire combine and hold correspondence with the enemies of the said United States, and did then and there traitorously and shamefully quit and abandon, and traitorously and shamefully cause to be quitted and abandoned, the said military post, so as aforesaid established by the said north-western army of the said United States, at or near Sandwich aforesaid, in the said British province of Upper Canada aforesaid, and did then and there traitorously neglect and omit to make the proper preparations for attacking and reducing or attempting to reduce, the said fort called Malden, otherwise called Amherstberg, in the said province of Upper Canada aforesaid, and did then and there traitorously prevent the said British fort called Malden, otherwise called Amherstberg, in the said British province of Upper Canada, from being attacked and reduced, or an attempt being made to reduce the same, by the said north-western army of the said United States, under his command as aforesaid, and by the means aforesaid did then and there traitorously adhere to the enemies of said United States, giving them aid and comfort.

THIRD SPECIFICATION.

And, also, in this: That afterwards, and during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, to wit, on the sixteenth day of August, one thousand eight hundred and twelve, aforesaid, at Detroit aforesaid, in the Michigan territory aforesaid, the said William Hull was then and there a citizen of the said United States, owing allegiance to the said United States, and was then and there a brigadier-general in the army of the said United States, and was then and there commander of the north-western army of the said United States, and was then and there commander of a certain fort called Fort Detroit, belonging to the said United States, erected at and near the town of Detroit, upon a bank of the river Detroit, in the said territory of Michigan, the works whereof, and the guns and gun carriages belonging thereto, then were, and long before had been, decayed, dilapidated and out of repair: And the said B. Gen Wm. Hull then and there did traitorously conspire and combine with certain enemies of the said United States (whose names are unknown) then and there traitorously and shamefully to surrender and abandon to the enemies of the said United States the said fort called Fort Detroit, belonging to the said United States as aforesaid, and then and there under the command of the said Brigadier General William Hull as aforesaid, with all the troops, regulars as well as militia, then and there under the command of the said brigadier-General Wm. Hull as aforesaid, and all the public stores and arms, and all public documents, including every thing else of a public nature appertaining to the said fort called Fort Detroit, and to the said north-western army of the said United States, under the command of the said Brigadier General William Hull as aforesaid: And that in prosecution of the said traitorous conspiracy and combination, the said Brigadier-General William Hull did then and there wilfully and traitorously neglect and omit to repair and strengthen the works of the fort called Fort Detroit, then and there under his command as aforesaid, and to put the same (together with the said guns and gun-carriages belonging thereto) into a proper state and condition for resistance and defence against the approaches, attacks and assaults of the enemies of the said United States; and did then and there wilfully and traitorously neglect and omit to fortify the places and passes at and near to the said fort called Fort Detroit, by and through which the troops of the enemies of the said United States might then and there reasonably be expected to approach, and did approach, the said fort called Fort Detroit, for the purpose of attacking and subduing the same; and did then and there traitorously neglect and omit to oppose, resist and repel, and defeat, and to attempt to repel and defeat, the troops of the enemies of the said United States, in their hostile preparations and approach to and towards the said fort called Fort De-

troit, for the purpose of attacking and subduing the same: And that in the further prosecution and completion of the said traitorous conspiracy and combination, the said brigadier-general William Hull did then and there traitorously and shamefully abandon and surrender the said fort called Fort Detroit, then and there under his command as aforesaid (which it was his duty then and there to maintain and defend) together with all the troops, as well regulars as militia, then and there in the said fort called Fort Detroit, then and there belonging to the said United States as aforesaid, and then and there under his command as aforesaid, and all the public stores and arms, and public documents, including every thing else of a public nature, in and appertaining to the said fort called fort Detroit, and to the said north-western army of the said United States, then and there under his command as aforesaid, unto the enemies of the said United States, to wit, to the British forces then and there under the command of major-general Brock: Whereby the said William Hull, on the said sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, at Detroit aforesaid, in the territory of Michigan aforesaid, (being then and there a citizen of the said United States, owing allegiance to the said United States, and being then and there a brigadier-general in the army of the said United States, and being then and there commander of the said north-western army of the said United States, and being then and there commander of the fort called Fort Detroit, belonging to the United States as aforesaid,) did then and there traitorously and shamefully abandon and surrender the said fort called Fort Detroit, to the enemies of the said United States, to wit, to the said British troops under the command of major-general Brock as aforesaid, and did then and there, by the means aforesaid, traitorously adhere to the enemies of the said United States, giving them aid and comfort.

II. CHARGE.

COWARDICE, at and in the neighbourhood of Detroit, between the first day of July and the seventeenth day of August, in the year one thousand eight hundred and twelve.

FIRST SPECIFICATION.

In this—That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, the said Brigadier-General William Hull then commanding the north-western army of the said United States as aforesaid, having entered the said British province of Upper Canada, in prosecution of the said war on behalf of the said United States, and being there in possession of the town of Sandwich and the adjacent country, in the name and on behalf of the United States, and having declare

and avowed the object and intention of attacking and subduing the British fort called Malden, otherwise called Amherstberg, in the said British province of Upper Canada, and generally, of maintaining and enlarging his position and possession in the said British province of Upper Canada, on the eight day of August, in the year one thousand eight hundred and twelve, at Sandwich aforesaid, in the British province of Upper Canada aforesaid, did then and there misbehave himself before the enemy, and shamefully manifest an undue fear and apprehension of danger, by a course of conduct and conversation evincing personal alarm, agitation of mind and privation of judgment; by abandoning the said object and design of attacking the said British fort called Malden, otherwise called Amherstberg, by quitting the position and possession taken at the town of Sandwich and in the adjacent country, in the said British province of Upper Canada as aforesaid, and by retreating abruptly from and out of the said British province of Upper Canada, to Detroit, in the territory of Michigan aforesaid, without any cause for so doing arising from the superior numbers, state and condition of the British forces which were then and there opposed to the said army of the United States, under the command of the said Brigadier General William Hull, and without any other just and sufficient cause whatsoever: Whereby the officers and soldiers of the said north-western army of the said United States, then and there under the command of the said Brigadier-General William Hull, were induced to lose, and did lose, all confidence in the personal courage and the military capacity of the said commander; the inhabitants of the said British province of Upper Canada were taught to distrust the power and professions of the invading general; a shade was cast upon the reputation of the American arms, and the service of the said United States, in the prosecution of the said war, suffered great detriment and disadvantage.

SECOND SPECIFICATION.

And, also, in this: That during the said war as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, to wit, on the fifteenth day of August, one thousand eight hundred and twelve aforesaid, the enemy having raised certain batteries on the bank of the said river Detroit, in the said British province of Upper Canada, opposite to the said Fort Detroit, and certain American posts and batteries established and erected near to the said Fort Detroit, in the said territory of Michigan, and a cannonade being commenced from the said batteries of the enemy against and upon the said Fort of Detroit, and the said American posts and batteries established and erected near thereto, in the said territory of Michigan, the said Brigadier-General William Hull, on the said fifteenth day of August, in the year one thousand eight hundred and twelve aforesaid, at Detroit aforesaid, in the

territory of Michigan aforesaid, (being then and there commander of the said fort called Fort Detroit, and of the said American posts and batteries established and erected near thereto, in the said territory of Michigan, and being then and there commander of the said north-western army of the said United States) did then and there, during the continuance of the cannonade aforesaid, shamefully misbehave himself before the enemy, and manifest great fear and apprehension of personal danger, by a course of conduct and conversation evincing personal alarm, agitation of mind and privation of judgment : and particularly by various timid and cowardly actions and expressions, then and there used and uttered, in the presence of the officers and soldiers then and there belonging to the said north western army of the said United States, then and there under his command as aforesaid, as well in a public street of the town of Detroit, as in places adjacent to the said fort of Detroit, and the said posts and batteries established and erected near thereto, in the said territory of Michigan : Whereby a fatal encouragement was afforded for the hostile enterprizes of the enemy ; a pernicious example (calculated to intimidate and to disorganize) was given to the American troops, and the service of the United States, in the prosecution of the said war, was exposed to hazard, shame and disappointment.

THIRD SPECIFICATION.

And, also, in this : That during the said war carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, to wit, on the sixteenth day of August, in the year one thousand eight hundred and twelve, aforesaid, the British forces under the command of Major General Brock, having crossed the said river Detroit, having landed at a place called Spring Wells, otherwise called Spring Hill, in the said territory of Michigan, and having thence marched towards the said fort of Detroit with the design to attack the said Brigadier General Hull, on the said sixteenth day of August, in the year one thousand eight hundred and twelve, aforesaid, in the said territory of Michigan, aforesaid, being then and there commander of the said Fort of Detroit, and being then and there commander of the said North Western army of the said United States, did then and there during all the time of the enemy's crossing the said river Detroit as aforesaid, landing at the said Spring Wells, otherwise called Spring Hill, as aforesaid, and marching towards the said Fort Detroit as aforesaid, with the design to attack the same as aforesaid, shamefully misbehave himself before the enemy, and manifest great fear and apprehension of personal danger, by various timid and cowardly actions and expressions, then and there uttered and used, in the presence of the officers and soldiers belonging to the said north-western army of the said United States, then and there under his command as aforesaid ; by avoiding all personal danger, from

making no attempt to prevent the enemy's crossing the said river Detroit, and landing at the said Spring Wells, otherwise called Spring Hill; by avoiding all personal danger from reconnoitering and encountering the enemy in battle, on the said march of the enemy towards the said fort of Detroit; by hastily sending flags of truce to the enemy, with overtures for a capitulation; by anxiously withdrawing his person from the American troops, in the open field, to a place of comparative safety, within the walls of the said Fort Detroit; by an irresolute fluctuation of orders, sometimes inconsistent with each other, and sometimes incoherent in themselves; by forbidding the American artillery to fire on the enemy, on the said march of the enemy towards the said Fort Detroit; by calling the American troops from the field, and crowding them into the said Fort Detroit while the enemy was on the said march towards the said Fort Detroit; by a precipitate declaration to the enemy that he surrendered the said Fort Detroit, and the said north-western army of the said United States, before terms of capitulation were signed or considered, or even suggested; and, generally, by a course of conduct and conversation evincing personal fear, agitation of mind and privation of judgment: Whereby the said Fort of Detroit, and the said north-western army of the said United States, then and there under the command of the said Brigadier-General William Hull, were then and there rendered an easy and certain conquest to the approaching enemy; the officers and soldiers of a gallant army (compelled by the obligations of military law to obey the orders of their commander) were exposed to unmerited mortification and reproach; and the service of the said United States, in the prosecution of the said war, suffered great detriment and discredit.

FOURTH SPECIFICATION:

And, also, in this: That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, to wit; on the sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, at Detroit aforesaid, in the territory of Michigan aforesaid; the said Fort Detroit being then and there well garrisoned and supplied with cannon, ammunition and provisions; the said north-western army of the said United States, being then and there well supplied with arms, ammunition and provisions; and the officers and soldiers thereof being then and there in high spirits, and eager to meet and encounter the approaching enemy in battle; and a fine train of artillery being then and there subject to the orders and disposal of the said brigadier-general William Hull, for the purpose of defence or attack, yet the said brigadier-general William Hull, then and there being commander of the said fort of Detroit, and of the said north-western army of the said United States, acting upon the impulse of

personal fear and apprehension, and contemplating as the means of personal safety, a shameful abandonment and surrender of the said Fort Detroit, and of the said north-western army of the said United States, under his command as aforesaid, to the approaching enemy, did then and there shamefully misbehave himself before the enemy, and did then and there enter into a disgraceful capitulation with the enemy, containing no consolatory stipulation, that the said garrison and army should march out of the said fort of Detroit with the honors of war, no just and humane stipulation for the security and protection of such of the inhabitants of the said British province of Upper Canada, as had accepted the said brigadier-general William Hull's invitation to join the American standard, nor any reasonable stipulation for an opportunity of reporting to the secretary for the department of war, the circumstances of so unexpected and so important an event; and did then and there shamefully abandon, surrender and give up the said fort of Detroit, together with all the troops, regulars as well as militia, then and there under his command as aforesaid; and all the public stores, arms, and all public documents, including any thing else of a public nature belonging to the said fort of Detroit, and to the said north-western army of the said United States, then and there, under his command as aforesaid, to the said approaching enemy, to wit, to the British troops under the command of major-general Brock, without any cause for so doing, arising from the superior numbers, state and condition of the said British forces, or from the actual want, or just expectation of sudden want of arms, ammunition and provisions for the said Fort Detroit and the said north western army of the said United States, and without any other adequate cause whatsoever: Whereby the territorial sovereignty, rights and property of the said United States were shamefully ceded to the enemy, a brave and patriotic army was wantonly sacrificed by the personal fears of the commander, and the service of the said United States, in the prosecution of the said war, suffered a great and afflicting loss.

III. CHARGE.

NEGLECT OF DUTY, and UNOFFICER-LIKE CONDUCT. while commanding a separate army, between the ninth of April and the seventeenth of August, in the year one thousand eight hundred and twelve.

FIRST SPECIFICATION.

In this: That before and during the said war, carried on and prosecuted as aforesaid by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, the said Brig. General William Hull being duly appointed to command the north-western army of the said United States, did actually

take and assume the command of the said north-western army on or about the twenty-fifth day of May, in the year one thousand eight hundred and twelve, at or near Dayton, in the state of Ohio, and did thence constantly continue in the actual command of the said army, as well on the march from Dayton aforesaid, to Detroit, in the territory of Michigan, and at Detroit aforesaid, as in the British province of Upper Canada, until his capitulation with the enemy, and the consequent surrender of Fort Detroit, in the said Michigan territory, with all the troops, regulars as well as militia, under his command, to the British forces under the command of Major-General Brock, to wit, at Detroit aforesaid, in the territory of Michigan aforesaid, on the sixteenth day of August in the year one thousand eight hundred and twelve aforesaid: And that the said Brigadier-General William Hull, unwindful of the important trust reposed in him, during all the time aforesaid, and as well on the march of the said army from Dayton aforesaid to Detroit aforesaid, and at Detroit aforesaid, as in the British province of Upper Canada aforesaid, was guilty of neglect of duty, and of an officer-like conduct, by neglecting and omitting, with sufficient care and frequency to inspect, train, exercise, review and order; and to cause to be inspected, trained, reviewed and ordered, the said army under his command as aforesaid; and also by neglecting and omitting, in due form and time, to prepare an order of battle, and make the same known to the said army, on the march from Dayton aforesaid to Detroit aforesaid, in the Michigan territory aforesaid: Whereby the discipline of the troops under the command of the said Brigadier-General William Hull as aforesaid, was in danger of being relaxed, their comfort was liable to be impaired, their confidence in the military skill and dispositions of their commander was diminished, and the said army was exposed to the hazard of disorder and defeat, in the event of an attack being made thereon by the enemy.

SECOND SPECIFICATION.

And, also, in this: That during the said war, so as aforesaid carried on and prosecuted, by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, to wit, on or about the first day of July, in the year one thousand eight hundred and twelve aforesaid, at the Rapids of the river Miami, in the territory of Michigan, the said Brigadier-General William Hull, then and there commanding the said north-western army of the said United States, on the march thereof from Dayton, in the state of Ohio, to Detroit aforesaid, in the territory of Michigan aforesaid, and then and there having sufficient cause to know or to believe that war then existed between the said United States and their territories and the said United Kingdom of Great Britain and the dependencies thereof, was guilty of neglect of duty and an officer-like conduct, by then and there hiring, or causing to be hired, an unarmed vessel, and putting, or causing to be put on

board thereof, to be transported by water passage from the said Rapids of the Miami of the Lake to Detroit aforesaid (the said Brigadier-General William Hull having sufficient cause to know or to believe the imminent danger of capture by the enemy, to which the said unarmed vessel, on the passage aforesaid, would be exposed) certain sick soldiers, and a great part of the hospital stores belonging to the said army, together with a trunk containing, (among other things,) the papers herein after mentioned, which it was the duty of the said Brig. Gen. William Hull most carefully to keep and preserve, from the view and knowledge of the enemy, that is to say, the official correspondence of the Secretary of the Department of War and the said Brig. Gen. William Hull, as well touching the expedition on which the said north-western army, under his command as aforesaid, was then employed, as touching a declaration of war by the said United States of America against the said United Kingdom of Great Britain and Ireland and the dependencies thereof, and also certain official muster-rolls, reports, and returns of the numbers, state and condition of the said army under his command as aforesaid; and the said unarmed vessel, on the passage aforesaid, from the said Rapids of the river Miami of the lake towards Detroit aforesaid, afterwards, to wit, on or about the second day of July, in the year one thousand eight hundred and twelve aforesaid, was captured by the enemy, having on board thereof, at the time of such capture, the said sick soldiers, the said hospital stores, and the said trunk containing the said official correspondence, and also the said muster rolls, reports and returns of the numbers, state and condition of the said army: Whereby the said sick soldiers were made prisoners of war; the said hospital stores were lost the said United States; and the said official correspondence, and the said muster rolls, reports and returns of the numbers, state and condition of the said army came to the possession, knowledge and use of the enemies of the said United States, to the great injury of the said United States.

THIRD SPECIFICATION.

And, also, in this: That during the said war carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, the said Brigadier-General William Hull, having arrived with the said north-western army of the said United States, under his command as aforesaid, at Detroit, in the territory of Michigan, on the seventh day of July, in the year one thousand eight hundred and twelve aforesaid, and having the possession and command of the said Fort of Detroit from that time constantly until the abandonment and surrender thereof to the British forces under the command of Major-General Broek, on the sixteenth day of August, one thousand eight hundred and twelve aforesaid, and finding upon his said arrival at Detroit aforesaid, that the works of the said Fort Detroit were greatly damaged and dilapidated, and that the guns and gun

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carriages belonging to the said Fort Detroit were also damaged and out of repair; and moreover well knowing the importance of the said Fort Detroit to the service of the said United States, in the operations of the said war, and that the same, (together with the said guns and gun-carriages) should be put and kept in proper order and repair, was guilty of neglect of duty, by neglecting and omitting, during all the time of his possession and command as aforesaid, in a proper and sufficient manner, to repair and strengthen, or cause to be repaired and strengthened, the works of the said Fort Detroit; by neglecting and omitting, in a proper and sufficient manner, and in due time for the service of the said United States, to repair, or cause to be repaired, the said guns and gun-carriages, and generally, by neglecting and omitting to put, or cause to be put, said Fort Detroit in a proper state and condition for resistance and defence, in the event of an invasion and attack by the enemy: Whereby the said Fort Detroit was left an easy conquest to the enemy; the said guns and gun-carriages being afterwards required for the service of the said United States in the British province of Upper Canada, were still found unfit for transportation and use; great time was consumed in preparing and fitting them for the said service, and the operations of the war were fatally obstructed and suspended.

FOURTH SPECIFICATION.

And, also, in this: That during the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, the said brigadier-general William Hull declaring and avowing an intention and design, with the said north-western army of the said United States, under his command as aforesaid, to invade and enter the British province of Upper Canada, to invest and attack the British fort called Malden, otherwise called Amherstberg, in the said British province, and to maintain and enlarge his position and possession in the said British province, and well knowing that expedition, resolution and energy were indispensable to the prosecution and accomplishment of such intention and design, and having arrived at Detroit aforesaid in the territory of Michigan aforesaid, on the seventh day of July, in the year one thousand eight hundred and twelve aforesaid, and having invaded and entered the said British province of Upper Canada, on the twelfth day of July, in the year aforesaid; and therein taken possession of the town of Sandwich aforesaid and having evacuated, with the main body of his army, the said British province of Upper Canada, on the eight day of August, in the year aforesaid, was guilty of neglect of duty and unofficer-like conduct, by not seasonably repairing, fitting and transporting or causing to be repaired, fitted and transported, the guns and gun-carriages, which were necessary to the operations of the war in the said British province of Upper Canada; by an useless and

injurious waste of time and opportunity at Sandwich aforesaid, in the said British province of Upper Canada, without making an attempt to reduce the said British fort called Malden, otherwise called Amherstberg; by an unnecessary consumption of time in projects to conciliate the British inhabitants of the said British province of Upper Canada, and the neighbouring Indians, without resorting to the more effectual display of a military power, capacity and disposition, to maintain the acquisition of conquest, and to perform the promises of protection; by postponing in the first instance, and by abandoning in the next, an investment and attack upon the said British fort called Malden, otherwise called Amherstberg; and by finally evacuating the said British province of Upper Canada, without providing, in any respect, for the safety of the inhabitants thereof, who had accepted the said brigadier-general William Hull's invitation to join the American standard, and without having in any degree accomplished the said intention and design of the said brigadier-general William Hull, so as aforesaid avowed and declared, upon the invasion of the said British province as aforesaid: Whereby an opportunity was afforded to the enemy to bring into suspicion and contempt the power and the conduct of the American commander; to collect and combine the British forces; to seduce, intimidate and engage the Indians; to awe into submission the wavering inhabitants of the said British province of Upper Canada; to reinforce the said British fort called Malden, otherwise called Amherstberg; and to prepare for investing and attacking the said fort of Detroit, in the said territory of Michigan; while, on the other hand, the said army of the said United States, under the command of the said brigadier-general William Hull as aforesaid, diminished in effective numbers, in consequence of sickness and other casualties; the officers and soldiers naturally became dissatisfied and disgusted with a scene of such inactivity, irresolution and procrastination; the hope of support and co-operation, as well from the Indians as from the British inhabitants of the said British province of Upper Canada, was destroyed; and the general ardor of the troops, in the prosecution of the war, insensibly abated.

FIFTH SPECIFICATION.

And, also, in this: That during the continuance of the said war, carried on and prosecuted as aforesaid by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, the said brigadier-general William Hull, with the said north-western army of the said United States under his command as aforesaid, arrived at Detroit aforesaid, in the territory of Michigan aforesaid, to wit, on or about the seventh day of July, in the year one thousand eight hundred and twelve aforesaid; that with the said army under his command as aforesaid, he entered and invaded the said British province of Upper Canada, to wit,

on or about the twelfth day of July, in the year aforesaid; that with the main body of the said army under his command as aforesaid, he evacuated the said British province of Upper Canada, on the eighth day of August in the year aforesaid, thence returning to Detroit aforesaid, in the said territory of Michigan; and that he abandoned, surrendered and gave up said fort Detroit, with all the troops, regulars as well as militia, under his command as aforesaid, to the British forces under the command of Major General Brock, to wit, on the sixteenth day of August, in the year aforesaid: And that during all the movements aforesaid, and during all the time aforesaid, to wit, from the said seventh day of July, in the year one thousand eight hundred and twelve aforesaid, to and including the said sixteenth day of August, in the year aforesaid, it was of high importance to the security and supply of the said fort Detroit, and the said army of the said United States, under the command of the said brigadier-general William Hull as aforesaid, that a free and open communication should be had and preserved between the said fort Detroit and the said army of the said United States, under the command of the said brigadier-general William Hull as aforesaid, and a certain American settlement and military post made and established at the river Raisin, in the said territory of Michigan: And that the said brigadier-general William Hull, well knowing the premises, but unmindful of the trust reposed in him, was guilty of a neglect of duty and unofficer-like conduct, by suffering the enemy to interrupt and cut off the said communication between the said fort Detroit and the said army of the said United States under his command as aforesaid, and the said American settlement and military post made and established at the river Raisin aforesaid, in the territory of Michigan aforesaid, to wit, on the first day of August, in the year one thousand eight hundred and twelve aforesaid, or on some other day of the said month of August, or some day of the preceding month of July, in the year aforesaid: also, by afterwards, to wit, on the fourth day of August, in the year aforesaid, detaching Major Thomas B. Van Horne, of Colonel James Findley's regiment of Ohio volunteers, with an inadequate force, (the said brigadier-general William Hull having sufficient cause for knowing or believing the same to be inadequate,) to attempt again to open the said communication between the said fort Detroit and the said army of the said United States, under the command of the said brigadier-general William Hull as aforesaid, and the said American settlement and military post on the said river Raisin in the territory of Michigan aforesaid; also, by afterwards, to wit, on the eighth day of August in the year aforesaid, detaching lieutenant-colonel James Miller, of the fifth regiment of United States' Infantry, with the number, or about the number of five hundred men to attempt again to open the said communication between the said fort of Detroit and the said army of the said United States under the command of the said brigadier-general William Hull, and

the said American settlement and military post at the said river Raisin in the territory of Michigan aforesaid, and neglecting to furnish and forward, or to cause to be furnished and forwarded to the said last-mentioned detachment, at or near Brownstown, on its march upon the service aforesaid, an adequate supply of provisions, (the said brigadier-general William Hull having sufficient cause to know or believe that the said last-mentioned detachment, at or near Brownstown, on its march upon the service aforesaid, was in want of provisions, and that they could not prosecute and accomplish the said service, unless an adequate supply of provisions was furnished and forwarded to them, at or near Brownstown aforesaid :) And, also, by afterwards, to wit, on the fourteenth day of August, in the year aforesaid, detaching Colonel Duncan McArthur, colonel of a regiment of Ohio volunteers, and Colonel Lewis Cass, colonel of another regiment of Ohio volunteers, with the number or about the number of four hundred men, as well to attempt again to open the said communication between the said fort Detroit and the said army of the said United States, under the command of the said brigadier-general William Hull as aforesaid, and the said American settlement and military post at the river Raisin aforesaid, in the territory of Michigan aforesaid, as to escort provisions from the said American settlement and military post, to Detroit aforesaid, without issuing, furnishing and forwarding, or causing to be issued, furnished and forwarded to the said last-mentioned detachment, an adequate supply of provisions for the service on which they were employed as aforesaid, (the said Brigadier-General William Hull, having sufficient cause to know or to believe that the said last-mentioned detachment was in want of a further supply of provisions upon the service aforesaid, and that they could not prosecute and accomplish the said service, unless such further supply was issued, furnished and forwarded to them :) Whereby the said detachment under the said Maj. Thomas B. Van Horne, being encountered by the enemy with a superior force, was defeated and returned to Detroit, without accomplishing the service on which they were employed as aforesaid; the said detachment under the said lieutenant-colonel James Miller, having achieved a signal victory over the enemy during the march on the service aforesaid, were nevertheless compelled, from the want of an adequate supply of provisions, to abandon the service on which they were employed as aforesaid, and to return to Detroit aforesaid; the said detachment under the said Colonel Duncan McArthur and the said Colonel Lewis Cass, from want of an adequate supply of provisions, were unable to prosecute the service on which they were employed as aforesaid, and were returning to Detroit aforesaid, at the time of the abandonment and surrender of the said fort Detroit and the said army of the said United States, to the British forces under the command of major-general Brock as aforesaid; and finally, the said communication between the said Fort Detroit and the

said army of the said United States, under the command of the said brigadier-general William Hull, and the said American settlement and military post at the said river Raisin, in the territory of Michigan aforesaid, by reason of the said neglects and omissions of the said Brigadier-General William Hull as aforesaid, was, and remained interrupted and totally cut off by the enemy, to wit, from the said first day of August, in the year aforesaid, or from some other day in the said month of August, or in the preceding month of July, in the year aforesaid, to and including the said sixteenth day of August, in the year aforesaid.

SIXTH SPECIFICATION.

And, also, in this—That during the continuance of the said war, so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, the said Brigadier-General William Hull, with the said north-western army of the said United States under his command as aforesaid, having invaded and entered the said British province of Upper Canada as aforesaid, and having declared and avowed an intention and design of investing and attacking the said British fort called Malden, otherwise called Amherstberg, in the said British province of Upper Canada, and a detachment of the said army under his command as aforesaid, led by the said Colonel Lewis Cass and the said Lieutenant-Colonel James Miller, having attacked and repulsed the enemy, and seized upon a certain bridge over the river called the river "Aux Canards," on the rout from Sandwich in the said British province of Upper Canada to the said British fort called Malden, otherwise called Amherstberg, and an opportunity having thereby been afforded for an immediate investment and attack upon the said British fort called Malden, otherwise called Amherstberg: Yet the said Brigadier-General William Hull, well knowing the premises, and unmindful of the trust reposed in him, to wit, on the eighteenth day of July, in the year one thousand eight hundred and twelve aforesaid, at Sandwich aforesaid, in the said British province of Upper Canada, was guilty of neglect of duty and unofficer-like conduct, by neglecting and omitting to advance with the said army under his command as aforesaid, to maintain or attempt to maintain the possession of the said bridge over the said river called the river Aux Canards, and by omitting to proceed to the immediate investment and attack of the said British fort called Malden, otherwise called Amherstberg, in the said British province of Upper Canada: Whereby the advantage of acquiring and keeping possession of the said bridge over the said river called the river Aux Canards as aforesaid, was im providently lost, and the prospect of a successful investment and attack upon the said British fort called Malden, otherwise called Amherstberg, speedily vanished.

SEVENTH SPECIFICATION.

And, also, in this: That during the continuance of the said war so as aforesaid carried on and prosecuted by and between the said United States of America and their territories, and the said United Kingdom of Great Britain and Ireland and the dependencies thereof, the said brigadier-general William Hull, with the said north-western army of the said United States under his command as aforesaid, having evacuated the said British province of Upper Canada, returning thence to Detroit aforesaid, in the territory of Michigan aforesaid, the enemy having afterwards taken possession of the bank of said river Detroit, opposite to Detroit aforesaid, and thereon erected batteries wherewith to attack and annoy, as well the said fort Detroit and the American posts and batteries erected and established near thereto, as the town of Detroit in the said territory of Michigan, the enemy having also manifested an intention and a design to invade and enter the said territory of Michigan, and to invest and attack the said fort Detroit, and the enemy having also, afterwards, in pursuance of such intention and design, landed at a place called Spring Wells, otherwise called Spring-Hill, in the neighbourhood of the said fort Detroit, in the territory of Michigan aforesaid: Yet the said brigadier-general William Hull, well knowing the premises, and unmindful of the trust reposed in him, to wit, from the eleventh day of August to and including the sixteenth day of August, in the year one thousand eight hundred and twelve aforesaid, was guilty of neglect of duty and unofficer-like conduct, by neglecting and omitting to prevent, and to attempt to prevent the enemy from erecting the said batteries on the bank of the said river Detroit, opposite to the said fort of Detroit as aforesaid; by neglecting and omitting to fortify the landing-place at the said Spring Wells, otherwise called Spring Hill, in the territory of Michigan aforesaid; and by neglecting and omitting to annoy and attack the enemy, on and after his landing at Spring Wells, otherwise called Spring-Hill as aforesaid, in the territory of Michigan aforesaid: Whereby the enemy was enabled securely to erect the said batteries on the bank of the said river Detroit as aforesaid, for attacking and annoying as well the said fort Detroit, and the posts and batteries erected and established near thereto, as the said town of Detroit; to invade the said territory of Michigan without opposition or loss; and to approach the said fort Detroit with the air and confidence of a triumph.

A. J. DALLAS,
Judge Advocate.

DEFENCE.

MR. PRESIDENT, AND GENTLEMEN OF THE COURT MARTIAL.

I HAVE too long and too severely felt the effects of public prejudice, excited by unfounded reports and groundless clamors, not to rejoice that the time has arrived when I may speak in my own vindication, before an impartial and honourable tribunal.

The charges upon which you are now to decide, have been propagated through the Union with a *zeal* and *industry*, to which my age, my character and my former services have in vain been opposed. My reputation and feelings have been the sport of every one who either from malicious, selfish or political motives chose to traduce me. The time has been when no one would have dared to couple dishonor with my name, when my heart has exulted to find myself mentioned among those who deserved well of their Country. But since my efforts to serve her have been unsuccessful, how have I been tortured with cruel and unfounded accusations, even conscious innocence has not always given me fortitude to bear with this injustice, unmoved. Knowing the integrity of my own motives, and how zealously I have sought to discharge my duty to the public, my heart has often swollen with indignation when I have seen the indefatigable pains that have been taken by repetitions of the foulest calumnies to excite and keep alive prejudices against me. Your own knowledge gentlemen of what has been passing in the world, will convince you that this is not declamation, but I shall shew you in the course of my defence, that men from whose profession and whose rank it was not to be expected, have been parties in this injustice.

At length, however, the time I have so anxiously desired, has arrived, when my conduct must be tested by *evidence*, instead of the misrepresentations of my enemies, and I *do* feel a confidence that when you have pronounced upon that evidence I may appeal to your judgment to refute the clamors which have been raised against me.

I cannot but think, Mr. President, that the charges against me are exhibited in a form hitherto unprecedented in proceedings of this nature. It was not to be expected, that in a court where the accused, whatever may be his infirmities or incapacities to attend to his own defence, is not permitted to have the benefit of council, the charges would be enveloped in such a profusion of words, that it is difficult for one not accustomed to the technical forms of pleadings in the civil courts to understand them, and be so complicated by repetitions that it is still more difficult to reduce them to any order or analysis.

It is extremely important, however, that the court should ascertain, and always bear in mind precisely of what I am accused. The course of pro-

ceeding which has been adopted by the court, renders this the more necessary, as testimony has been given which certainly cannot be applied to any of the specifications. The court having thought proper to admit it with an intimation that any further objection which I might offer to its propriety or relevancy when I arrived at this stage of my defence, would be considered. In submission to this decision of the court, I have omitted to make objections on this ground in several instances. I shall not attempt to offer an argument to the court to prove the injustice of making one charge against a person, and trying and convicting him by another: I did however understand, from what passed when I first submitted to the court an objection of this nature, that an objection was entertained by some of the members, that though the testimony might not apply to any specification, yet if the fact intended to be proved, would come under either of the general charges, the testimony would be proper. If this were so, then there would be no use in the specifications, indeed they would be worse than useless, they would only mislead the accused, and induce him to prepare against one accusation when he might be tried on another.

The propriety of admitting nothing under the general charge, for which there is not a specification, I think will appear manifest by supposing that a general charge should be unofficer-like conduct, and that the only specification should be insulting a superior. Suppose that under this general charge and specification, testimony should be offered of absence without leave, this would also be unofficer-like conduct, and therefore would come under the general charge. But would it not be the height of injustice to try the accused for absenting himself, a crime of which the charges gave him no notice. I trust the court will see the validity of the objection I am considering, and that they will be careful to give no weight to any part of the testimony which does not apply to some one of the specifications.

I do not think it necessary to occupy the time of the court with a recapitulation of the charges, nor shall I exhaust your patience by attempting in my defence, to follow the volume on your table through all its reiterations. It will be found for the most part to be a repetition of the same facts, displayed in the jargon of special pleading, with an incongruous dissemination of such opprobrious epithets as fancy might furnish to heighten the imputation of guilt. I shall endeavour to arrange and consider the accusations in such order as will enable me to bring my defence into some compass, and to be the better understood. I shall particularly notice the charges which the judge advocate in his opening mentioned as those which he expected would be substantiated, and I shall not omit to make my defence against every accusation which there has been the least testimony to support. The cardinal accusations, if I may be permitted so to express myself, are founded upon an alleged delay at Sandwich, the retreat from Canada, and the surrender at Detroit.

If I can satisfy the court that these acts were in themselves necessary or justifiable, it will then remain for me to answer such of the accusations as relate to the manner in which these acts were done, and to answer also some charges not immediately connected with these transactions. This course

will embrace the whole of my defence. Of this latter description is the first specification under the charge of treason which relates to the vessel sent from the Miami. I shall therefore give this a separate consideration, and as it stands first and highest in the black catalogue of the crimes which are imputed to me, and is repeated in other specifications, I shall in the first instance ask the attention of the court to this subject.

I have already protested against the authority of this court to decide upon this charge, because treason is a crime of which a court martial has no cognizance. Their power is confined to such military crimes as are specified in the articles of war, and their jurisdiction is so limited, not only by the Constitution, but by the very articles themselves. I have thought it my duty in the most solemn manner to make and insist on this protest for the sake of repelling a dangerous example, and not as it respected myself or the case now under your consideration; for my only desire is to acquit myself of the criminal acts and motives which have been so wantonly imputed to me. If I cannot succeed in this, I am indifferent as to the names by which the crimes may be called, and if I do not acquit myself of the other charges which are the most wounding to the feelings of a soldier, I am equally indifferent to the punishment that may be inflicted. I have no desire to preserve a life that shall be stigmatized by a conviction of this court on the charges of cowardice.

The first specification under the charge of treason relates to sending the vessel on the first of July from the Miami with the Hospital stores, sick baggage, and army documents. As to sending the vessel with what she had on board, except the last article it is not disputed—but that for the reasons which according to the testimony of General M^r Arthur I assigned for it at the time, it would not have been an improper measure had not war been declared.

The whole criminality then in this respect rests on the truth of the allegation that I despatched the vessel knowing of the war, and with a design to give traitorous intelligence to the enemy.

It is very certain that I had no direct intelligence of the war on the 1st of July when the vessel was despatched. I had on the 26th of June received a letter from the Secretary at war, dated on the day war was declared, the 18th of June—and I afterwards received another letter from him of the same date, announcing to me the declaration of war. It seems to have been intimated that the letter of the 18th of June which I received on the 26th, was the letter announcing the war—but I think the testimony of General M^r Arthur settles that point—He acknowledges that I shewed him both the letters which I received on the 26th of June at the time I received it—and also the letter which I received on the 2nd of July at the time that letter came to my hands: But if the testimony of General M^r Arthur and other witnesses left any doubt on this subject, it must be removed by a reference to a letter from me to the Secretary at war which has been read by the Judge Advocate, dated at fort Findlay, on the 26th of June, which acknowledges the receipt of the letter from him of the 18th of June, which I had then received.—In which I say “*in the event of a war,*” it will be ne-

necessary to pursue certain measures—I think this is evidence not only that the letter which I had received on the 26th of June was not the letter which announced the war; but that the letter which I did receive gave me no expectations that war was declared when I wrote.

It may be said however in the language of some of the specifications, that though I had no certain information of the declaration of war when I despatched the vessel, I had “sufficient cause to know and believe that war existed.” As I have said the first letter from the Secretary at war, dated on the 18th of June, gave me no cause to know or believe the fact, all that is in that letter which could by any possibility be supposed to have related to such an event, are these few words.—“Circumstances have recently occurred which render it necessary you should pursue your march to Detroit with all possible expedition.” This was but a reiteration of my former orders.—In the letter from the Secretary at war of the 9th of April, I am directed “to repair with as little delay as possible to Detroit”—how then was I to infer from this letter that war had been declared. I did never suppose that if war was declared I should receive a peremptory order from Washington to march my whole army in all events to Detroit; there, by leaving the enemy at Malden eighteen miles in my rear, directly on my line of communication, with all the facilities which he had by reason of his command of the waters to cut off my supplies. Such an order appeared to me so inconsistent with my military experience that I did not suppose it could have been founded on a declaration of war, or even on a prospect of immediate hostilities. I did suppose that in the event of a war a discretion would have been left to me to conduct my troops in such a manner as I might judge from circumstances would be most conducive to their security, and most likely to effect the destruction of the enemy—and that I should have been left at liberty to post my army in what I might think the most advantageous situation—I did suppose that when it was seen that war would be immediate and inevitable—I should have been informed of measures taken to reinforce me, and to keep open the road which it was known I was obliged to make for near two hundred miles through the wilderness, and on which my army must depend for its supplies—I did suppose that I should have been informed of co-operations intended for my support, and of means provided for my communicating with those who might direct those co-operations—and I did suppose that I should have been informed of measures taken to obtain the command of the waters—All my intercourse, as well previously as subsequently to my appointment, as I shall hereafter prove, with the executive officers of the Government, gave me reason to expect that all these measures would be pursued in the event of a war.

How then was I to understand from this simple intimation that circumstances had occurred which required that I should pursue my march to Detroit with expedition—that war was actually declared, or immediately expected? Besides, it naturally occurred to me that if the circumstances alluded to by the Secretary were a declaration of war, or such as would immediately lead to it—I should be told so explicitly—I could conceive no reason for making his communications to me in ambiguous terms.

But it may be said that General M'Arthur has proved by the testimony which he has given relative to conversations he had with me when I received the letter from the Secretary at war on the 26th day of June, and when I despatched the vessel on the 1st of July, that I had "sufficient cause to know or believe that war then existed."

General M'Arthur's testimony on this subject is as follows: "On the evening of the 26th of June an express arrived from Chillicothe bearing a letter for me, another for General Hull—I went with the bearer to General Hull, who opened his letter and handed it to me—it was from the Secretary at war, dated 18th June, 1812—It stated that circumstances had occurred that made it necessary that the General should proceed to Detroit—take measures for defence, and wait for further orders. I also received a letter from a friend quoting a postscript to a letter from General Worthington a senator in Congress, which postscript said 'before this reaches you war will be declared.' I stated to the General that Colonel Dunlap the bearer of the express had told me that before that time war was declared. The General then asked me what I thought of the Secretary's letter—I said I thought it a notice of a declaration of war—the General said it seemed very much like it.—The General and I had a great deal of conversation on the information we had from time to time received, and we appeared to agree that war was certainly declared."

General M'Arthur further testified that on the morning of the day on which we left the encampment near the Miami—"the General sent for me to his tent and stated that he thought of sending the baggage by water from that place—I said I thought it hazardous—that possibly the British might have information of war and might take the vessel—the General replied he could not imagine there was any danger, the wind was fair and the vessel would pass in a short time, adding that he could not take upon himself the responsibility of carrying on the teams any further—I think there was a verbal or written order to embark the baggage—I stated to the General that I did not like to send on my baggage; but if it was a general order it must be complied with. We proceeded on towards Detroit—and on the first or second evening after the commandants of corps were called to the tent of Gen. Hull and were informed that a letter had been received from the Secretary at war announcing the declaration of war."

The witness further stated in some part of his examination that notwithstanding the order he sent nothing by the vessel but his mess-boxes.

I must beg leave first to remark to the court that this testimony of Gen. M'Arthur affords strong evidence of the fallability of his memory—for he states that the letter from the Secretary of war which I shewed to him at fort Findlay on the 26th of June, ordered me to proceed to Detroit, take measures for defence, and wait for further orders.—An order to prepare for defence would have been a much more significant intimation of a declaration of war than any thing the letter contained. A copy of the letter furnished by the war department is before the court and will prove how far General M'Arthur can be mistaken. The expressions which he gives as having been contained in the letter which he saw on the 26th of June, are

contained in the letter announcing the war which was shown to him on the 2nd of July. It cannot be pretended that he might have seen this last mentioned letter on the 26th of June—because if that had been so there could not have been after the explicit information contained in that letter, any such debate as he states there was between us on the 26th of June, as to the possibility of war having been declared. I do not mean to charge Gen. M'Arthur with a wilful misrepresentation—I have no doubt but that the zeal which he has manifested for my conviction has led him into this mistake. As this is the highest charge against me, he probably has felt the most anxiety that it should be substantiated—and his mind has adopted as the impressions of his memory what are only the results of his wishes. I mark this inaccuracy of Gen. M'Arthur the more particularly to shew that inasmuch as he was so materially mistaken with respect to the contents of the letter, which he states he had in his hand, and deliberately perused, and has confounded what passed at one time with what occurred at another; he may very possibly be as far mistaken in relation to the conversations he has related.

I do aver that in respect to the conversation which he relates as having passed between us on the 26th of June, he is mistaken; or rather he represents it in a manner calculated to make impressions altogether different from what in truth it ought to do. After he had informed me of the letter he had received, quoting the Postscript from General Worthington—and after he had communicated to me what had been said by Colonel Dunlap the bearer of the letters, I might have said it seemed like war, or made use of some expression of that sort—but I deny that I ever said that the *Secretary's letter* seemed like war—on the contrary—that letter induced me to suppose notwithstanding the Postscript from Gen. Worthington and the information of Col. Dunlap, that war could not have been declared.

I beg the court to remark that neither the postscript or the information of Col. Dunlap did state, or could have stated, that war was declared, but merely gave their opinions that war would be declared by the time the letters were received, without stating any grounds for their opinions—considering, however, the opinion of Gen. Worthington, as coming from a source entitled to great respect and consideration, it induced me to think it possible that war might have been declared—But when I found day after day passing without intelligence from the government—when I found that on the 1st of July five days had elapsed since the arrival of Col. Dunlap, and when I felt confident that not a moment would be lost in despatching a messenger to me whenever war was declared—I was satisfied that the information which had been communicated to me through Gen. M'Arthur had no other foundation than those rumors and expectations which had been so long afloat throughout the country. One circumstance was a strong inducement to believe that the relations of peace with Great Britain had not been interrupted. When I left Washington, the secretary of war had told me it was not expected that war would be declared before the 4th of July. This is a fact, though the secretary of war has answered to the ninth interrogatory addressed to him that “he had not such a recol-

lection of the conversation between us respecting the probable time of the declaration of war as to enable him to answer satisfactorily on that subject.—But as I had not on the 1st of July, when I despatched the vessel received myself any information of the declaration of war, I was to presume that the enemy could not have been apprised of that event. It appeared to me an inadmissible imputation on the administration, to suppose it possible that they would suffer information of intended hostilities to be conveyed to the enemy before it could reach their own General.—Yet it was fourteen days after war was declared before I had any information of it.—Though it appears that a letter from the secretary at war written on the 18th of June, had reached me at Fort Fisher in seven days—and an attention to the dates of the correspondence between me and the war department will show that the communication between the city of Washington and the army, even when it was in Canada, might be made in eight or ten days. In the secretary's letter to me of the 1st of August which has been read, he acknowledges the receipt of mine of the 19th of July by Capt. Curtis, who left my head quarters at Sandwich on the 20th of July.—I never heard that any duplicate of the letter of the 18th of June was written to me, or that the letter was delayed by any accident. Nor do I know that any letter was written to me by the administration after the war was declared, except the one of the 18th of June, until the 24th of the same month, when six days had elapsed. A letter written at Washington on the 18th of June might have reached me by express in five days.—But the letter which was to give me the first information of the war, if it left Washington on the 18th or 19th of June, could not have travelled at a greater rate than thirty miles a day.

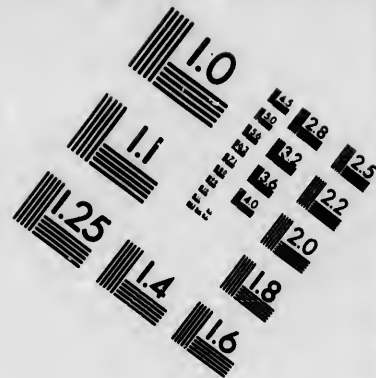
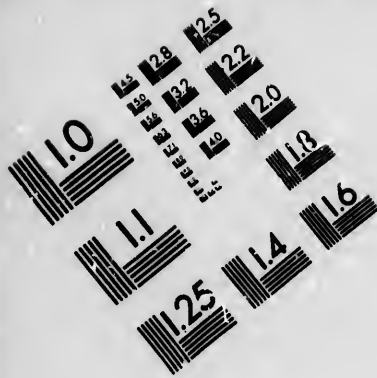
I think after this statement the court will not say that it was *treasonable* in me to conclude, that it was impossible the administration should have left me ignorant of the war when it might be known to the enemy.

It is to direct the attention of the court to the testimony of Gen. Cass upon this point. He had a perfect knowledge of all the circumstances with which Gen. M'Arthur and myself were acquainted—he had seen the letter of the 18th of June from the secretary at war, which I received on the 26th. He knew what information Gen. M'Arthur had received from his correspondent and from Col. Dunlap. He testifies that when the vessel was despatched from the Miami, he had no reason to believe that at that time I knew of the war. He had no conversation with me which could induce such a belief. He sent his own baggage and servant by the vessel, which on his cross-examination he says he certainly should not have done if he had had any thought that war then existed.

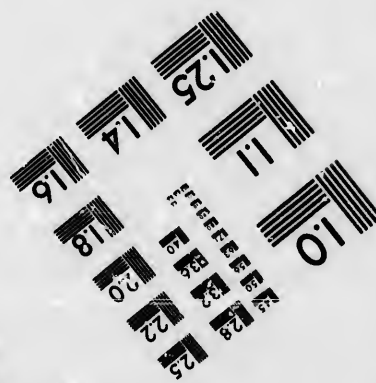
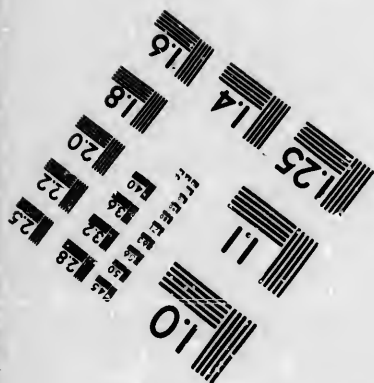
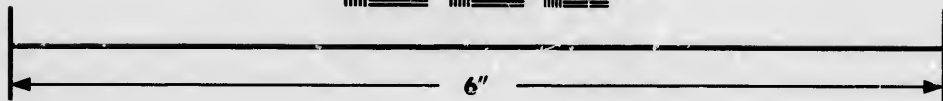
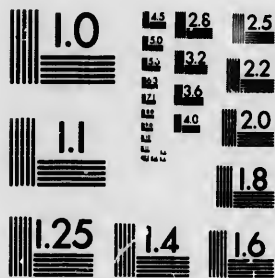
But it appears that immediately after the receipt of the letter announcing to me the declaration of war—I used every possible exertion to recall the vessel—I refer the court on this point to the testimony of Capt. Fuller. This conduct is entirely inconsistent with the criminal intentions which are imputed to me in respect to this transaction.

It remains for me to notice that part of this charge which states that I put on board the army documents and papers whereby the enemy were made





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acquainted with the force of the army, the designs of the government, and with the declaration of war.

I do not hesitate to acknowledge that it was improper to trust the documents which were put on board that vessel to such a conveyance, or even for me to part with them in any way, whether in peace or war.—But I think it has satisfactorily appeared to the court from the testimony of Captain Hull—that this was owing to an accident which might have happened to the most careful commander.

I had ordered my baggage to be put on board the vessel, not supposing it possible that the trunk containing my papers could have been considered by my aid-de-camp included in that order—and it was not until after the vessel had departed that with equal surprise and regret I learnt that my aid-de-camp had with my baggage shipped a trunk which contained nothing but papers. There is one allegation in this charge that I feel myself authorized to repel with some indignation—because I think it could only have been made with a view to exculpate others from misconduct at my expence, by an attempt to make it be believed that the enemy derived a knowledge of the war from the capture of this vessel. If this were so how is it to be accounted for that the enemy should have assailed her in a hostile manner before she was captured.

The court will recollect that Lieut. Gooding states, that when the vessel was off Bois-blanc Island, the enemy's armed brig Hunter bore down upon her and that she was pursued by a Batteau from Malden filled with armed men—but that the suggestion that the enemy derived their knowledge of the declaration of war from the papers found on board the vessel, is repelled by the fact that this vessel had no documents on board which could possibly give them that information she could not have had—for I had no such documents in my possession at the time she sailed from the rapids of the Miami. It is also a fact that is now notorious that the enemy had received information of the passing of the act declaring war several days before I had any communication from Washington on the subject. It is as ungenerous as it is unjust to charge the enemy's prior knowledge of the declaration of war to any act of mine. I have now closed my defence on this first specification under the charge of treason—and although I persist in my objection to this court's taking cognizance of that crime—yet I have given the charge a full examination—because the same facts are specified under the charge of unofficer-like conduct—and I shall rely upon what I have now said for my vindication against the specification which relates to this subject under that charge.

To sustain this charge of treason there are two other specifications—one relating to the supposed delay in attacking Malden and the retreat from Sandwich, the other to the surrender of Detroit.—But as there is a repetition of these specifications under the two other charges—I shall not now notice them further than to observe that these specifications under the charge of treason, allege that the delay, the retreat and the surrender were all in pursuance of a traitorous combination and conspiracy between me and certain enemies of the United States, whose names are unknown. If the court

and cognizance of this crime of treason, I could not be convicted unless the traitorous combination and conspiracy were proved. I might ask where is the evidence of any combination or conspiracy between me and the enemy—But I forbear with indignation from the examination of such a question—and now when the court has before it all the testimony that the utmost efforts of my prosecutors have been able to bring against me, I ask them to judge from what malignant source the information which could have suggested this charge, must have been drawn.—Some of the witnesses who have testified against me must have furnished the materials from which the gentleman employed by the government to frame the charges must have drawn them. They must then have made suggestions to him which they dare not attempt to support by their own oaths or by one particle of proof, and which could have resulted only from the bitterness of their own hearts towards me.

Pursuant to the arrangement of my defence which I have before suggested—I shall next consider the specifications which charge me with crimes or misconduct, in delaying to attack Malden—in withdrawing the army from Canada, and in making the final surrender.

There are, as I have said, accusations which are not immediately connected with these transactions, and these I shall notice in the course of my defence.—But if I should satisfy this court that these cardinal accusations are unsupported; that the measures to which they refer were fit and proper, and such as circumstances required—or if it should now appear, that a different course in respect to either of these measures ought to have been adopted.—Yet if I should satisfy the members of this court, that in my conduct upon these occasions I have been actuated by the purest motives and a sense of duty, I trust I shall not be judged criminal—I shall not pretend that I may not have erred—but error and crime are not convertible terms.

When I accepted a commission from the government, I pledged to them my utmost zeal and ability in discharge of the duties of the office they conferred upon me, and I trust that pledge will not be considered as forfeited, though it should appear to this court that on some occasions my judgment may have misdirected me. The profession of a soldier would not be longer honourable, if neither the purest intentions or the most zealous exertions could shield him from criminal imputations on the errors of his judgment.

My defence, Mr. President, on these points, as well as on all others will be a relation of facts and circumstances, and an exposition of the considerations, and motives which have governed my conduct.

You cannot, gentlemen, form a just decision upon my case, nor judge of the considerations which have influenced my conduct, unless you understand what were my views and the views and expectations of the executive officers of the government of the United States, in respect to the Northwestern army—its relations and objects when I accepted my commission in April, 1812.

I feel some embarrassment in presenting to you, this part of my case—I am well aware that it may be said that I am attempting to exculpate myself by censuring others—I well know too that the political feelings of

many persons are so sensible and warm, that the slightest imputation of misconduct against the administration will excite their prejudice—and that such prejudices are the more likely to be roused when the charges are made by one who is prosecuted by the administration—But gentlemen I shall say nothing of the officers of the government that is not supported by irrefragable testimony—I shall only present for your consideration facts which are proved by documents before you, and shall make no observations upon them which are not obviously and absolutely necessary for my defence.—Much less shall I attempt to charge the administration with any wilful misconduct. I believe every member of it to have been actuated by the purest motives and the most ardent zeal in preparations for, and prosecution of an inevitable war. A war in which I should never have enlisted had I not believed it both just and necessary—and while my country is engaged in such a contest, let my former services to her, let my former character shield me from the suspicion that I would voluntarily say one word that shall lessen the confidence of my countrymen in those, under whose auspices our battles must be fought—and by whose wisdom and strength our misfortunes are to be redeemed, and our honour is to be saved.

But in my own vindication, and in defence of that honour which the government have now put at stake, I am obliged to say, that the army I commanded had not that co-operation and support which when I accepted my commission the government gave me reason to expect—and without the prospect of which, I should never with the force that was placed under my command have thought of carrying on offensive operations against Upper Canada—nor even have placed my army unless in obedience to orders in the situation in which it was after it's arrival on the waters of Lake Erie.

When I accepted the command of the North-western army, I did not suppose that in the event of a war with Great Britain, the force of that army would be adequate to conquer Upper Canada—Nor did I believe that the administration had such an opinion:—But on the contrary I did understand, and such it will appear was the understanding of the executive officers of the government, that in the event of a war the operations of my army would be strengthened and secured by a competent naval force on Lake Erie, and by the direction of other forces against the enemy's territory. Had these expectations been realized, instead of having lingered out so many months as a prosecuted criminal, instead of now standing before you as an accused, I might still have shared my country's confidence.—The foul charges to which I am now to answer would not have thus blasted the laurels of my youth.—But even in the wilds of Canada and amidst these whitened locks the might have retained their pristine verdure.

I proceed gentlemen to turn your attention to the documents, by a reference to which I mean to shew what were my views and expectations, and what I had a right to suppose were the views and expectations of the administration on the subject which we are now considering.

The first paper read by the Judge Advocate was a memorial addressed by me in 1809, to the then secretary at war.

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From this memorial the following is an extract:

"My residence at Detroit for four years has given me some knowledge of our Northern and Western frontier—and I take the liberty of communicating to you such facts as have fallen under my observation. The opinion I have formed—and the measures which appear to me the most expedient under the existing state of things."

"After a variety of suggestions, and among others, that though war should not take place, it would be necessary to have a larger force in Upper Canada than was then there—the memorial is as follows:

"I would likewise suggest for consideration the expediency of building some armed vessels on Lake Erie, for the purpose of preserving the communication—consider, you have *three military posts* to the North and West of these waters, and no other communication with them."

"It is true this memorial was written in time of peace—but the suggestion as to the naval force could only be with reference to its use in war. I do not know for what purpose this memorial was read by the Judge Advocate, unless it were to shew of what importance I thought our possession of Detroit—Sir, my opinion on that subject has ever been and is yet the same as is expressed in that memorial—I thought the administration had the same sentiments—and therefore I was the more firmly persuaded that the administration would have taken every possible means to support the army which was sent for its protection. At the moment I was surrendering that fortress, a conviction of its great importance increased the poignant regret I felt for the necessity of the measure.

On the 6th of March, 1812, which was about a month before I was appointed to a command in the army, I addressed another memorial to the administration which is so important to shew my views with respect to the force to be directed against Upper Canada in the event of a war, that I beg leave to read the whole of it—It is in the following words:

"WASHINGTON, 6th March, 1812;

(COPY.)

"SIR,

"The prompt manner in which you have adopted measures for the protection of Detroit and the other settlements in the territory of Michigan, inspires me with confidence that such ulterior arrangements will speedily be made as the peculiar situation of that section of the United States may require.

"How far the measures already adopted will give security to that part of the country in the event of war with Great Britain, is a subject worthy of consideration.

"Officers of a company have been appointed with orders to recruit in the territory.

"The Secretary acting as governor has been authorized to make a detachment of four companies of militia and call them into actual service.

"The commanding officer of fort Detroit has been directed to erect batteries on the banks of the river Detroit for the protection of the town.

"These, as incipient measures I very much approve, and was particularly pleased with the decisive manner they were adopted. It must be apparent however they add no *physical* strength to that section of the country. The force already there is only better organized and prepared to be called into action. By comparing this force with the force which may be opposed to us, will evince the necessity of additional means of defence, if the territory is worth preserving.

"In the fort of Detroit I understand by the last returns there are less than one hundred regulars—the population of the territory is less than five thousand—and this population of the territory principally of Canadian Character—Connected with the post of Detroit, and three hundred miles North, is the island of Michilimackinac, where is a fort garrisoned by a company of regulars. Near the South bend of Lake Michigan on the Western side is fort Dearborn, likewise garrisoned by a company of regulars."

"This is all the force on which we can at present calculate for the safety of our frontier and for the protection of the Indians which the United States are bound by treaties to afford.

"No support can be derived from the Indian Nations, even in the event of war, because our officers are instructed to advise them to remain neutral—and not to accept their services if they should be offered.

"I will now consider the British force opposed to this part of the United States.

"A fort at Amherstberg at the mouth of the Detroit river, garrisoned by about one hundred British troops—another fort on the island of St. Joseph's at the mouth of the river St. Mary's, garrisoned by about fifty British troops—two armed ships on Lake Erie, which command the waters and would prevent all communication from the States through that channel—a population of at least fifty thousand in that part of Upper Canada which is connected with the Detroit river and Lake Erie, and could easily be brought to operate against our settlements—about four thousand men, principally Canadians employed in the Indian trade and under British influence—and lastly may be reckoned all the Indians in Upper Canada, and a large proportion of the powerful nations residing in the territory of the United States, who now hold a constant and friendly intercourse with the British agents, and are liberally fed and clothed by the bounty of the British government.

"It appears from this statement that the British force which can be brought to operate against us in the territory, is more than ten to one, without including the Indians.

"It requires no difficult reasoning to determine what must be the consequence—that part of the United States *must* fall into the hands of the British government, with all the inhabitants—the forts at Chlicaga, Michilimackinac and Detroit, and all the public stores, with the public and private vessels on the Lake.

" This will give our enemies the entire command of all the country North and North-west of the Miami of Lake Erie—and the settlements on the western part of the state of Ohio, will be subject to the depredations of the powerful northern nations of savages. There is nothing in my opinion (in the event of war) can prevent this state of things but an adequate force on the Detroit river, opposite to the settlements in Upper Canada. It may be asked how is this force to be placed there, and how is it to be supported? If air, we cannot command the Ocean, we can command the inland Lakes of our country—I have always been of the opinion that we ought to have built as many armed vessels on the Lakes as would have commanded them—we have more interest in them than the British nation, and can build vessels with more convenience. If, however, there is no intention of the kind, this communication must be abandoned until we take possession of the Canadas.

" The army which marches into the country must open roads through the wilderness, and the supplies and provisions of whatever else may be necessary, must pass by land through the state of Ohio. If the conquest of the Canadas is the object of the government, they will then have an army in a proper situation to commence the operations, and at the same time protect the defenceless inhabitants and control the Indians within our territory. The answer probably may be, it is more expedient to leave the Michigan territory to it's fate, and direct the force to Montreal. This will prevent all communication by the St. Lawrence with Upper Canada, and it must of course surrender. In this expectation I think it probable there would be a disappointment—if a force is not sent sufficient to oppose the British force which may be collected at Amherstberg and it's vicinity, Detroit, Michillmackinac and Chicaga must fall—the inhabitants must once more change their allegiance, and the Indians become the exclusive friends and allies of the King their great Father. In the garrisons at these places they will find large quantities of arms and military stores of every kind.—Upper Canada and our country of which they will be in the possession, will furnish them with provisions—How then will Upper Canada be conquered by possessing Montreal? They will be in the quiet possession of their country and a part of our's—and how are they to be approached? You cannot approach them by water, because they command the Lakes—In approaching them by land you must pass through a wilderness filled with savages under British control, and devoted to British interest. The consequences of such an attempt may probably be best learned from the history of the campaign in that very country conducted by Gens. Harmar, St. Clair and Wayne. In Upper Canada they have a governor who is a Major Gen. in their army—who commands the regular troops, the militia and the Indians—the whole force of the country is therefore combined under his command and may be directed to a single point without any collision.

" From the preceding state of facts and observations it must be apparent that for Detroit and the settlements in it's neighbourhood—and likewise Michillmackinac and Chicaga under present circumstances are in the

power of the British—and that their possession of them would be extremely calamitous to the United States.

“In the event of peace with England I am of opinion that the northern frontier ought to be better protected than it is at present in the event of war—and the object being the reduction of the provinces of Upper and Lower Canada, I think it must be evident that the establishment of an army at Detroit, sufficient to defend that part of the country, control the Indians, and commence operations on the weakest points of defence of the enemy, would be an incipient measure indispensably necessary. With respect to the other points of attack I shall make no observations, as I probably shall have no agency in them. In considering this subject I have endeavoured to divest myself of all local feelings, and grounded my observations and opinions on public considerations alone.

“Two things appear to me to be certain, one is that in the event of war, the enemy will attempt to take possession of that country, with a view to obtain the assistance of the Indians residing in our territory; and the other is, that under its present circumstances of defence, it will be in their power to do it. A part of your army now recruiting may be as well supported and disciplined at Detroit as at any other place. A force adequate to the defence of that vulnerable point, would prevent a war with the savages, and probably induce the enemy to abandon the province of Upper Canada without opposition. The naval force on the Lakes would in that event fall into our possession—and we should obtain the command of the waters without the expence of building such a force.

“The British cannot hold Upper Canada without the assistance of the Indians, and that assistance they cannot obtain if we have an adequate force in the situation I have pointed out.

“There is another consideration very important. It will do more to prevent a general Indian war, as far West, and beyond the Mississippi, than any other measure. The Indians cannot conduct a war without the assistance of a civilized nation.

“The British establishment at Amherstberg is the great emporium from which even the most distant Indians receive their supplies. A force at the point I mentioned would prevent all communication of the Indians with that post—indeed sir, in every point of view in which the subject can be considered, it appears to me of the first importance to adopt the measure.”

I AM very Respectfully

Your most ob't servant,

WM. HULL.

To this document is annexed a copy of a letter from me to the secretary at war, and the two documents are certified as authentic documents in the following words:

“Copy of the Original on file in the War-Office.”

D. PARKER, Chief Clerk.

Can it be supposed, after this exposition of my views of what would be the enemy's force and situation, that I could ever have taken the command

of about four hundred regular troops and sixteen hundred militia, to effect by means of such a force, without any assistance or co-operation, the conquest of a province, a part only of which I had represented as containing fifty thousand inhabitants? That I could have contemplated an attack on an enemy, having at its disposal a body of regular troops, the control over countless savages, and the great advantage of the command of the lakes and waters? This memorial was received and approved by the government. This in itself is proof of their adoption of its sentiments—and that it was their opinion as well as mine, that in the event of a war, such an army as was put under my command could do nothing offensive, without we had a naval force on the upper lakes—and without a co-operation on other parts of the enemy's territory, which should distract his attention and prevent his bringing the greatest weight of his power on a single point.

A few days after I was appointed to the command of the North-western army, I presented another memorial to the President, through the war department, in which I was explicit as to what might be expected from such a force as I was to lead—as to the necessity of reinforcements, of our commanding the lakes—and the necessity of a co-operation in other quarters. My draft of this memorial I have lost, in the way which I shall hereafter explain. The existence of the original and its general purport is proved by Mr. Eastis, who in his answer to the 5th and 7th interrogatories addressed to him, says: "I have a perfect recollection of your having presented the memorial referred to in the interrogatory—I recollect he adds, your attendance by appointment at the war office—the memorial, or that part of it which related to the naval defence of Lake Erie, was referred or communicated to the secretary of the navy, who was present—The brig Adams, which had been employed as a transport, under direction of the war department, became the subject of conversation—whether she was (being then on the stocks repairing) actually transferred to the war department I do not distinctly recollect—if that was the case, the evidence is on record."

Yet this memorial, or a copy of it I have never been able to obtain. I have applied for it to the secretary of war—He referred me to the secretary of the navy—the secretary of the navy to Mr. Dallas—to him I applied—and he referred me to the present Judge Advocate who knows nothing of it. And finally when my trial commenced in this city, I addressed a letter to the President of the United States, requesting him to interpose his authority, to procure me a document, which I considered so important in my defence—it was, sir, too much for me to have expected an answer from the President himself, though the time was when such an answer would not have been considered as conferring too great an honour.

The President referred my letter to the gentlemen at the head of the war and navy departments—They also would not condescend to answer my letter, but handed it over to their clerks. The elevation of these gentlemen seems to have rendered them giddy. I ask, would it not have comporting with the importance of the occasion, the decorum due to an old

man and a veteran soldier, not yet convicted of any crime—for the secretaries themselves to have addressed me?

But in answer to my letter, I received a letter from the chief clerk in the war office, dated February 12, 1814—with a certificate from the chief clerk in the navy department. The letter from the war office is in the following words:

War Office, Feb. 12, 1814.

Sir,

Your letter of the 1st inst. addressed to the President of the United States has been referred to me.—In answer to which I have the honour to state, that all your communications to the War department after you were appointed Brig. Gen. in the army, have been transmitted to P. S. Parker, Judge Advocate of the court martial now sitting at Albany, together with such others as you had required as far as they could be found on the files of this office. The public records of papers of the war department have been constantly within my observation and charge for several years past, and I assure you, Sir, I have never seen or heard of "a memoir pointing out the necessity of a navy on Lake Erie." Since the receipt of your letter I have carefully examined the files and enquired of every gentleman attached to the department, without being able to give any information on the subject."

I have the honour to be, Sir,

Very respectfully, your ob't servt,

DANIEL PARKER, CLK.

Brig. Gen. WM. HULL, Albany.

It is unaccountable, Mr. President, that a public document of this nature should be lost—that it did exist, and was on the files of the war office, is proved beyond controversy, by the deposition of the late secretary at war, who swears, that he has a *perfect recollection of it*. But a most extraordinary part of this letter from the war department, is that which states that the writer has had the public records and papers of the war department constantly under his charge and observation for several years past, and yet that he never knew or heard of a memorial, pointing out the necessity of a navy on Lake Erie. Mr. President it is a fact hardly to be credited, that the copy of the memorial of the 6th of March, 1812, from which I made that copy which I have just read to the court, is certified as a true copy from the files of the war office by the very gentleman who writes me the letter of the 14th February. Let me quote from the memorial of the 6th March, or rather from the copy certified as I have mentioned above, a passage which is in the following words:

"If sir, we cannot command the ocean, we can command the inland lakes of our country. I have always been of the opinion that we ought to have built as many armed vessels on the lakes as would have commanded them. We have more interest in them than the British nation, and can build vessels with more convenience. If, however, there is no intention of

the kind, that communication must be abandoned until we take possession of the Canadas."

When the writer of the letter had certified a copy of this memorial but a few days ago—how could he say, that he never knew or heard of a memorial, pointing out the necessity of a navy on Lake Erie?

I will not presume, sir, that the writer of the letter intends an equivocal, and designs that his meaning shall turn upon the use of the word necessity. This I think would not be consistent with the solemnity of the occasion in which his letter is written—nor sir, would it serve him—because it is impossible to read my memoir of the 6th of March, without perceiving that I do, from the beginning to the end, point out the necessity of a navy, in every sense in which the word necessity can be applied on such a subject. I can vary far, sir, from meaning to insinuate in the utmost degree, that the letter from the clerk of the war department contains any misrepresentation. His character and station protects him from such a suspicion, and as the memorial which proves the inconsistency of the letter, has been furnished, the declaration in the letter, could not have been made with any sinister design—and I have only trespassed on the patience of the court, with these observations on this subject, to show that as the memorial of the 6th of March, 1812, has been so entirely forgotten at the war office, the certificate from thence that a memorial pointing out the necessity of a navy on Lake Erie, was never read or heard of, there is no sort of evidence, that another such may not have existed as well as that of the 6th of March.

The certificate from the navy department has been read—it will appear in the minutes—and I shall trouble the court with no remarks upon it. In respect to this memorial, I can now only rest upon my own declarations, which I think when I am in this manner deprived of the benefit of the paper, I am authorised to make. It did contain a representation in the most explicit and strongest terms, of the necessity of our having a naval force superior to the enemy on the lakes, and that without it, and unless the army I was to command was strengthened by additions to its numbers, and unless it were followed by detachments to keep open the communication, and insure its supplies from Ohio, and unless it was supported by co-operations in other quarters, my army could not be able to maintain itself at Detroit, much less carry on offensive operations in the enemy's country.

That such were the views and sentiments of the government as to my expedition, as well as my own, and that I was not expected to do more than protect Detroit and that quarter, and to keep in awe the Indians, will further appear from the facts and documents to which I shall now refer.

Upon this subject, I beg to turn the attention of the court to the testimony of General Porter. It will prove not only how pressing I was on the subject of a naval force with the Secretaries, but with the President himself. The deposition of Captain Charles Steward of the navy, states, that at an interview he had with the Secretary of the Navy, in the beginning of

April, 1812, the Secretary informed him, "that it was contemplated to give him the command on the Lakes—that a naval force superior to the British on the Lakes, had been strongly urged by General Hull, as essential, and as a certain means of ensuring to the army success."

I beg the court to notice that it is here stated, that I had strongly urged that the command of the Lakes was essential to success.

The first letter which I received from the Secretary of War after my appointment, and which is dated the 9th of April, 1812, describes the force which was to be under my command; the description of itself I presume must preclude an idea that it could have been intended for invasion or conquest; but its objects are expressed in this letter. I am directed as the commander of that force, to "adopt such measures with the chiefs of the several tribes of Indians, as might, in my judgment, appear to be best calculated to secure the peace of the country."

The first letter which I received from the war department, dated the 25th of June, and which was delivered to me on the 26th of the same month, directed me to pursue my march to Detroit with all possible expedition; and the second letter from the Secretary at War of the same date, which announced to me the war, gives me the same orders, and directs me to proceed to that post. If the army I commanded, had been deemed competent to carry on offensive operations against the enemy, without any assistance or support, my orders would certainly have been of a different nature. It would have been, in my discretion to pursue such measures, as I might have judged most efficacious. With an army competent to make an invasion, Detroit would not have been the point from which it should have been made.

A station opposite to Amherstberg, would have been on many accounts a preferable position; but Detroit was the proper situation for the army, for the purpose of protecting the territory and inhabitants of Michigan, and for keeping in awe the Indian tribes.

I beg that it may be observed, that I do not pretend that it was not contemplated, that the army I commanded when I was appointed to it, might be employed in offensive operations against the British in the event of a war; but I am endeavouring to show, and I trust shall satisfy the court, that neither myself or the officers of the government, ever supposed it would be competent to act as an offensive army, unless it was assisted and supported; or unless, as was supposed might be the case, such a defection of the inhabitants of Canada to the government, and a union of the Indians with us, should happen on the appearance of my army, as would in a great measure destroy the enemy's means of resistance.

The next letter I received from the Secretary at war, is dated the 24th of June, 1812. This letter informs me, that I am authorized to commence offensive operations. This would not have been the language addressed to me upon this occasion, if the government had supposed I had a force sufficient to commence such operations. In that case, I should have received a command instead of an authority. In this letter, the Secretary adverts to

my taking possession of Malden; but not as if he supposed I had the power of doing it. I am not to make the attempt, unless the force under my command should be equal to the enterprise; nor unless I could do it consistently with the safety of my own posts.

The caution which it is thought necessary to communicate to me by this letter, to be limited in my assurances of protection to the Canadians, and the notice that it conveys me that an adequate force cannot be relied upon for the reduction of the enemy's posts below, is evidence that my army was not thought sufficient to maintain itself in the enemy's country without assistance and co-operation.

In my letter to the Secretary at war of the 9th of July, 1812—which is in answer to that I have last mentioned, in which I am told that I am authorized to commence offensive operations, I expressed in the most explicit terms my opinion of the inadequacy of my force to the only offensive operation which could be undertaken from that quarter—My words are: "The British command the water and the savages—I do not think the force here equal to the reduction of Amherstberg—you must not therefore be too sanguine." I beg the Court to remark that this letter was written immediately after my arrival at Detroit, and a few days before I passed into Canada—of course before I had any knowledge of the fall of Michilimackinac—an event which had so decisive an influence on my subsequent operations.

On the 10th of July I wrote two letters to the Secretary at war, both on the subject of provisions for the army.—I mentioned to him in the first that the contractor could not furnish the supplies on account of the lakes being closed against us by the British naval force.—In the second letter, I reiterated the same information, and also inform the Secretary that I have made a new contract for provisions, which as they cannot be transported on the lake, must be carried on horses from Ohio through the wilderness. My letter concludes with these words: "The communication must be secured, or this army will be without provisions. Troops will be absolutely necessary on the road to protect the provisions. This must not be neglected. If it is, this army will perish by hunger."

The receipt of these letters is acknowledged by the Secretary at war in his letter to me of the 26th of July, 1812. To this letter from the war department I wish particularly to direct the attention of the Court. It shews that the Government well understood the situation of my army, and how much it stood in need of assistance and support.

By this letter I am informed, that Governor Meigs has been directed to furnish troops to guard the road and insure the transportation of provisions, that General Winchester had been ordered to reinforce me with fifteen hundred men—that a force was collecting at Niagara—that the commander in chief would be apprised of my situation, and directed to take measures to afford me the necessary support.

It is not my intention at this moment to shew that none of the expectations which this letter authorized, were ever realized. I now refer to it only as I have mentioned to prove that the officers of the executive govern-

ment must have considered my army, situated as it was, incompetent to carry on of itself effectual operations against the enemy.

In my letter to the Secretary at war of the 19th of July, are the following paragraphs.

"If you have not a force at Niagara, the whole force of the Province will be directed against this army." It is all important that Niagara should be invested—all our success will depend on it.

There has been read by the Judge Advocate a letter from the Secretary at war to me, dated the 1st of August. This letter I never received. It however shews no less on that account how necessary it was thought that a decision should be made in favor of the army I commanded. I therefore extract from it the following paragraph.

"On the 26th July your letters of the 7th and 10th were inclosed to General Dearborn, with a copy of mine to you of the 13th, accompanied with a request that he would make a decision in your favour. The General must have received this letter at Albany. By the mail of this evening, your's of the 29th is inclosed to him, with an instruction to make a diversion at Niagara and Kingston as soon as practicable."

In another letter from the Secretary of war of the 1st of August, he acknowledges the receipt of my proclamation to the Canadians. I now refer to that proclamation merely to direct the attention of the Court to that part in which I say "that the force I commanded was but the vanguard of a much greater"—I do this to shew the confidence I then had that the corps I commanded was to be reinforced and supplied.

On the 20th of August the Secretary of war addressed a letter to me which I did not receive—but from which I here quote a paragraph to shew how necessary he thought co-operation was for my support. The paragraph is in the following words—"Orders have been given to General Dearborn to attack the enemy's posts at Niagara and Kingston as soon as may be practicable. Our force at Niagara, according to General Dearborn's account, will amount to twenty-four hundred—and he will notify you of such movements and operations as he may order."

It is from these documents which have all been introduced by the Judge Advocate, that I prove what I have undertook to do—that when I took command of the north western army, it was understood by the Administration, as well as by myself, that in the event of a war with Great Britain, my force was to be augmented—that my communication with the State of Ohio was to be preserved by troops from that quarter—that the Lakes were to be commanded by us—and that my operations were to be facilitated by divisions on the frontiers below me.

The Court will hereafter perceive what an important influence a disappointment in all these particulars had on the events under consideration, and will not therefore I hope think I have uselessly trespassed on their time by detaining them so long on this part of the subject.

I cannot, however, omit one farther remark. I would ask the Court if subsequent events do not exclude a supposition that the Administration did expect that my army was in all events to be of itself adequate to the invasion

and conquest of the enemy's Country—unless it be admitted that there was an entire ignorance of what was necessary to accomplish these objects—for we have since seen General Harrison with an army more than quadruple to that which I led, for more than a year threatening the enemy on the same point where he was invaded by my army—and though ten thousand troops were co-operating with him on the points where I had been led to expect co-operation, yet he had not dared to set his foot on the enemy's shore 'till after our glorious naval victory on lake Erie—and was then obliged to content himself with the possession of no greater territory than his troops could cover.

I must address the Court before I proceed to the consideration of other matters to indulge me with the repetition of a remark which is so necessary for the understanding the subsequent parts of my defence, that I am anxious to impress it on their minds. It is that though as I have said, and I trust I have proved it was understood both by the Administration and by myself, that the force which I commanded would not in all events in case of war be competent to the invasion and conquest of Canada—yet both the officers of the Executive Government and myself did contemplate that in certain events I might with the army which I led subdue the enemy's posts in the Upper Canada—it was contemplated and believed that there would be a very general submission of the Inhabitants of that Province—and that many of them would arrange themselves under the American Standard—and it was also contemplated and believed that it would be possible for me to draw from them the aid of the Savages.

When I landed in Canada, and previously to the fall of Michilimackinac, there was every reason to believe that these expectations would be realized. Until that event took place, of which the enemy had notice about the 2nd of August, I had some sanguine hopes of success which I had expressed in my proclamation and in my communications with the war office—But after that misfortune, the scene was entirely changed; from that moment I saw that although it was possible that I might obtain temporary advantages—yet that they would eventually in the greatest disasters, unless I was aided and supported from other quarters.

Thus gentlemen I have endeavoured to shew you that I took the command under the expectation that in the event of a war, the operations of my army would be assisted by a competent force upon the Lakes—by detachments to keep clear the communication which I had opened through the wilderness—and by the co-operation, or at least such a demonstration of force against other parts of the enemy's territories, as would prevent his directing all his energies to the point where I might meet him—But it unfortunately happened that none of these expectations were fulfilled.

The effects of these disappointments will afterwards be considered.

The Court then adjourned to meet to-morrow morning at eleven o'clock.

Wednesday morning, March 16th, 1814.

The Court met pursuant to adjournment—present all the members.
General Hull appeared in Court: Capt. H. F. Hull's affidavit read by General Hull.

General Hull then proceeded to read his defence as follows:

I now assume my vindication of the measures which form the most prominent features in my accusation; that is to say *the delay at Sandwich, the retreat from thence, and the surrender of Detroit.*

It is necessary for me to explain the views and intentions I had, when I yielded to the importunities of my officers and crossed to the enemy's country.

It must be recollected that the orders I received in the letter of the 4th of June, which announced the war, directed me to proceed to Detroit and there to wait for further orders.

Finding that an impatience to cross, had been excited in the army, which was likely to be extremely injurious to my authority and the discipline of the troops; I called a council of war, and laid before the officers, the orders by which I was then bound, and asked their advice, as to the expediency of crossing. The council, notwithstanding my orders were of opinion that I ought to cross. I did not feel myself at liberty to follow their advice, and determined not to do so.

But on the same day I received the Secretary of war's letter of the 26th of June, in which he says—"Should the force under your command, be equal to the enterprize, and consistent with the safety of your own posts, you will take possession of Malden, and extend your conquests as circumstances may justify."

I did not think the force under my command equal to the conquest of Malden, nor did I think that with such a *length of line of communication* as it was requisite for me to keep open, I ought to make the attempt. My letter to the Secretary at war dated on this same 9th of July, which I have already quoted, expresses this opinion of the incompetency of my forces *in terms not to be misunderstood.* Yet as soon as I had received this last mentioned letter from the Secretary, I determined to take post in the enemy's country—My reasons for this determination were that I hoped thereby, to satisfy the impatience of my officers, and preserve the confidence of my army, which expressions of discontent were likely to impair—I should command the streights, and thereby prevent the enemy from sending succours to their northern posts, or carrying on the important trade of their north western company. I knew that it would have a great effect upon the Indians, to show them the American flag, flying on both shores; and I hoped, by establishing myself at Sandwich, to facilitate and increase the defection to the British Standard, which had manifested itself among the inhabitants and militia, and their Indian allies. My views in taking post in the enemy's Territory, are expressed in my letters to the Secretary of War. Sir, my letter of the 9th of July, I had as I have above mentioned told him I thought my force incompetent to attack Malden. In my letter of the 13th, written from Sandwich, I say "I consider the possession of this bank as highly important—by erecting one or two Batteries opposite the Batteries at Detroit, the river will be completely commanded. In the rear of the army on the *Detroit river, Lake St. Clair, and the river Le French,* is a populous and valuable part of the province. It is likewise probable, when the Indians see the American Standard on both sides the river, it will have a favourable effect."

I intended, nevertheless, without loss of time, to make preparations for putting in a State of service, my field Artillery, for an attack on Malden; and whosoever that should be ready, and I should find that the enemy's force was most likely to be further weakened by desertions, I would make the attack, if I had a prospect of co-operations and support from below—with- out which I thought, and I *think* recent events will prove that I thought correctly, I could neither preserve my own posts on our side of the river, or that which the enemy then possessed, if I should be so fortunate as to wrest it from him.

My officers, however, were not less importunate for proceeding immediately against Malden, than they had been to cross the river. I felt myself compelled to yield to their importunity, and had appointed a day for the attack. But before that day arrived, I received intelligence that determined me to postpone the enterprize and to recross to Detroit.

As preliminary to my vindication of these measures, it is important to consider what numerical force I could command when I crossed into Canada, its nature, and the probable force and strength of the enemy.

In every stage of this trial, I have felt as a great misfortune, the want of that documentary evidence, which might be expected from me. This arises from the loss of the Packet which sailed from the Miami—and from the more recent loss of all my baggage, and most of my papers. When I left Detroit a prisoner, I left my baggage with my daughter Mrs. Hickman, to be carried to my house by her. She soon after embarked in the enemy's brig Adams for fort Erie. On her arrival there, she was permitted to go to Buffalo, leaving her own and my baggage on board the brig. The same night the brig was taken by Commodore Elliot, retaken by the enemy and burnt, with all my baggage on board. This loss of my documents, has left the witnesses who testified against me, to speak on many important points, from estimation and conjecture—and they seem to have availed themselves of the liberty, so as always to make their estimates such as would be most against me—I shall myself be obliged often to speak of numbers from conjecture and estimate—but when I do so, I shall endeavour to present to the court the data on which my estimates were founded.

Major Jessup, the Brigade Major, says, that we moved into Canada with sixteen or eighteen hundred men—now neither the Michigan Legion, or the Michigan militia crossed with the army into Canada, and besides, there were, as the court will recollect has been testified by several of the witnesses, a portion of the Ohio volunteers who refused to cross, this number was about 180. Major Jessup further testifies, "That some time early in August, a few days previous to leaving Canada, he was called into a council of war to explain a report of brigade, and that there were then eighteen hundred effective men in *Canada and at Detroit*. The Michigan Legion were included in the 1800, but the Michigan militia, were not."

Now if there were but 1800 belonging to the brigade at this time, including all that were either with me in Canada, or at Detroit, and includ-

ing the Legion, how could 16 or 18 hundred have crossed with me. At the time that this report of Major Jessup's was made, we had lost but few of the troops that had crossed, and from the amount which he gives of the whole forces at that time, to ascertain what was the number that crossed, must be deducted the Michigan Legion and the Ohio volunteers that refused to pass the river. This will leave an amount much short of the sixteen or eighteen hundred, with which Major Jessup says we passed into Canada.

The court will remember that by a muster-roll and return, made at Fort Findly on the 26th of June, which has been exhibited by the Judge Advocate, the whole force which I then had under my command, amounted to 1,950. I was obliged to leave detachments at M'Arthur's block house, at Fort Findly and at the Miami. There were about forty invalids taken in the vessel that sailed from the Miami. I left some sick at the river Raisin, and the whole force with which I arrived at Detroit, I am convinced, did not exceed 1500 men—and I am confident, that the force with which I passed into Canada, did not exceed fourteen hundred. What proportion of the militia which I had with me at Sandwich would have been effective to lead against the enemy, the court may judge from general experience.

Major Van Horn has testified that when detachments were ordered, it was always found that not more than two thirds of the command ordered could be marched. I do not believe that at any time I could have led 1300 effective men against Malden, of these there was only Col. Miller's regiment of less than three hundred, that had seen any service.—The rest were Militia, who though, they were very ardent and patriotic in their expressions, had had no experience, and neither men or officers had ever been tried. It is not extraordinary that I should have felt some want of confidence in these raw-troops for such a contest as we must have expected before Malden, when it appears by the testimony of Col. Miller, that their own officers were not willing to be responsible for their firmness in an assault. Col. Miller states that in a council in which the propriety of attacking Malden was discussed, at which Gen. M'Arthur, Gen. Cass and Col. Findly were present, "Gen. Hull said, if we would answer for our men, he would lead us to Malden. I told him I would answer for the men I commanded, but the others said they would not be responsible for their men, but believed they would behave well."

I know, sir, that it may be said that my proclamation to the Canadians and my letters to the secretary at war, hold a different language. That in these I speak with confidence of attacking Malden, and of the excellence and sufficiency of my force. And I presume the specifications refer to my proclamation and to these letters, when they allege, that I had declared and avowed my intention of attacking and subduing Malden. I cannot conceive that these declarations could prove me guilty, if my measures without them, would not have been so. I do not see that they can in any way be made the test of the propriety or impropriety of the course I pursued. It would be hard indeed, if every general were to be judged criminal, who did not accomplish all the intentions he may have avowed.

This would be a rule, which I presume, there are *many generals* would not consent to establish. If it were adopted, no change of circumstances would justify the relinquishment of a design once formed.

I think, when it is considered under what circumstances my proclamation was published, it will not be thought just to adduce it as evidence against me on this occasion. I was then in an enemy's country, the inhabitants of which were sufficient, independent of his regular force, which was established near me, and of his Indian allies, to overwhelm the army I commanded. I had no prospect of even maintaining myself, much less of making conquests, unless I could induce a great portion of those inhabitants to forsake his standard. It was incumbent on me to use all means to deprive him of aid from the savage tribes. I knew that these two objects could only be effected by representing myself as having the utmost confidence in the force I commanded, and that it was able to overcome all opposition. With these views I published the proclamation. And indeed the force I commanded would have been equal to all I represented, had the same spirit of desertion and defection continued, which had manifested itself in the enemy's country, when we first invaded Canada.

But unfortunately before we retreated, all calculations founded on this basis had failed.

In my letters to the war department, down to the latter end of July, I speak with confidence of attacking Malden whenever the field artillery shall be prepared. But I beg the court to recollect, that this confidence was grounded upon the expectation that I then entertained, that the enemy would be weakened by the desertion of his militia, and the abandonment of the Indians. In all my letters which speak of the intended attack, I mention also the daily desertions from the enemy's standard. That I did not rely on the competency of my own force, until the enemy's should be reduced, must appear from my letter of the 9th of July, to which I have more than once referred.

About the first of August, we received the account of the fall of Michilimackinac. On the fourth I wrote a letter to the secretary from which the following are extracts:

"At the time the army under my command took possession of this part of the province of Upper Canada, every thing appeared favourable, and all the operations of the army have been successful. Circumstances have since occurred which seem materially to change our future prospects. The unexpected surrender of Michilimackinac, and the tardy operations of the army at Niagara, are the circumstances to which I allude. I have every reason to expect, in a very short time a large body of savages from the North, whose operations will be directed against the army."

After these observations I do not believe that the court will think that it is to be justly inferred, either from my proclamation, or from my letters, that I considered my force under any circumstances which existed before we left Canada competent to the reduction of Malden.

The force of the enemy, Lieut. Forbush states was towards the last of

July about 170 regulars, and 550 militia. The Indian force could never be ascertained with any precision—it could not have been less than near a thousand. I always supposed the enemy's force greater than this information makes it. But whatever may have been the force of the enemy, it must have been estimated as very considerable by some of my officers as well as myself. The court will recollect, that when I made the detachment under Col. Van Horn to the river Raisin, and Cols. Cass and M^r Arthur remonstrated with me against the sufficiency of this force, they each proposed to go on that expedition with his regiment. If the enemy had not appeared to be somewhat formidable to them, they could never have advised me to make so large a detachment as six hundred men, on a service, in which they could only have expected to meet a small part of his force. Col. M^r Arthur has offered other evidence of his opinion of the power of the enemy. For when I proposed to leave him with his regiment on the Canada shore, he charged me with having an intention to sacrifice him, by leaving him with such a force at that post, although he would have been in an entrenched camp, with artillery, where he would have had also some protection from the guns at Detroit, and would be in reach of instant support from thence.

The fort at Malden I was well acquainted with. In time of peace I had often been in it. I knew that it was capable of being made a place of strength, and that in contemplation of a war, the British for some time, had been using great exertions to put it in the best possible state of defence. I knew for near twenty years a field officer had commanded, and about an hundred regular troops had constantly been stationed in it, and that there always had been a regular corps of British artillery attached to the command. The question was, whether the troops I had under my command, so few of whom had even been tried, I was to attempt to carry this fortress with the bayonet? For myself particularly, when I considered what would have been the consequences of an unsuccessful attempt, I had a strong conviction that it would be wrong to make the effort, until we could have the advantage of heavy artillery. But finding that many of my officers who had seen no service, were impatient at delay, and were destroying my influence with the army, and its discipline, by their complaints and censures—for their satisfaction, and not for my own, nor for my own justification, two days after I crossed, that is, on the 14th of July, I called a council of war, in which it was decided that no attempt ought to be made on Malden, without the heavy artillery. My utmost exertions were then used to get in readiness the two twenty-four pounders and two howitzers which were at Detroit. Carriages were to be made for them entirely new. Though a delay in these preparations is one of the charges made against me, not a witness has attempted to support it. Indeed, gentlemen, I dare appeal to every officer who was with me, and who is willing to speak the truth, whether I did not use all possible means, and make all personal exertion to accomplish as speedily as possible this desirable object. I several times crossed the river myself, to inspect and hasten the artificers. I ordered plank to be taken off my own

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would to furnish a necessary part of the materials for the gun carriages. Capt. Dilliba in his second examination states, that he received an order to prepare the heavy artillery, after the army had crossed to Canada—he thinks it was on the 13th or 16th of July. My recollection is that the order was given on the 14th, that is, the day after we crossed, and on the very day that the council of war advised that the attack should not be made without the heavy cannon. From that time it is not pretended there was any delay in preparing them for service, and could not have been, without the fault of the officer who was trusted with the service. Until we crossed to Sandwich, the artificers were employed, as appears by the testimony of the same witness, in mounting the guns of fort Detroit. I beg the court also to notice the testimony of Col. Miller on this point. He says he saw no want of exertion in preparing the artillery. The necessary field artillery was not prepared until the 7th of August. Two days previous to this I had called another council. The members determined it would be advisable to wait two days for the artillery, and if it was not then ready, the attack ought to be made without it. I did not concur in this opinion. Indeed, the opinion of the officers in this and the former council, appeared to me inconsistent. For if, according to the decided opinion of the first council, it was then improper to make the attack without heavy ordnance, why was it not as necessary, when the last mentioned council sat? And if it were proper to wait two days for the artillery, according to the opinion of the last council, why was it not proper to wait longer? It may be said that between the first and second council, the enemy's force had diminished by desertion. No doubt it had as to numbers—great part of the militia had left them, and many of their Indian allies, but the fort of Malden retained all its strength, and there was no doubt but that their regular force (of which not an individual had deserted) and their remaining militia, was sufficient to man it. Indeed, reinforcements had arrived from fort George, both in the brig Hunter and one other vessel. At this council I found that nothing would satisfy my officers or the army, but a movement towards the enemy. I felt myself obliged to yield to the advice of the council, and did, as Gen. Cass has testified, declared that I would lead the army against Malden, as soon as the heavy artillery should be completed.

My opinion was that an attempt on Malden should never be made until there was an absolute certainty of success. This opinion was founded not only on considerations, which I shall hereafter mention, but upon the order I had received from the war department in the Secretary's letter of the 24th of June, which I have so often quoted—and by which I was directed not to attack Malden, unless I judged my force was equal to the enterprise, nor unless I could do it consistently with the safety of my own posts. I thought by delay, I was every day strengthening the probability of success in the enterprise—because the force of the enemy was daily diminishing by the desertion of his militia and Indians.—

But I thought myself bound to delay, till I had possessed myself of every

possible means of ensuring success, from a consideration of what would be the consequences of a defeat.

The army would have been destroyed, if not by the tomahawk of the Indians—they must after a defeat have perished for want of supplies.

A defeat would have been the signal for all the hordes of savages in the surrounding wilderness, to fall upon the unsuccessful troops. Every path would have been filled with those remorseless warriors—But it was not only the fate of the army that I anticipated on such an event—the horrors that it would let loose on the neighbouring country and throughout our extensive borders, were presented to my mind. I knew that if the army I commanded were beaten in battle, there would be nothing to restrain the savages of that part of our enemy, which, when a battle is decided in their favour, makes the vanquished and their defenceless country and people their prey.—In the ungenerous letter which Colonel Cass wrote to the Government, (and which as I think, was most unwarrantably published, he seems to think, that these are philanthropic considerations, unworthy a soldier. But sir, though brought up in the field, and though I have seen something of the horrors of war, I am not yet such a soldier, as that I can think of such scenes with indifference.

When I considered what would be the condition of the territory over which I had so long presided, and over which I was then Governor, in case the force I commanded, should be beaten in battle, and the inhabitants be left to the mercy of the savages, without any stipulation or force for their protection—I thought I should deserve the heaviest curses, if I risked a battle before I had taken every means in my power to insure victory.

These were the considerations that induced me to resist the urgency of my officers to move to the attack of Malden, till the 8th of August. It had been ascertained on the sixth, that the cannon would be done on the eighth—and on the sixth I issued an order for the army to prepare to move to the attack, on the 8th. Every thing was in readiness for the enterprize on the 7th. But on that evening I crossed with the whole army to Detroit, except a detachment of about three hundred men, under Major Denny, which was left intrenched at Sandwich, and which was also moved over on the 11th.

This retreat from the enemy's shore is one of the acts of Treason, cowardice, and unofficer-like conduct, of which I am accused. I proceed to submit to your consideration, my answer to this accusation, and the reasons which then governed my conduct, and which I yet believe to have been correct.

About the 1st of August, as appears by a letter of the 4th, I received an account of the fall of Michilimackinac, Lieut. Hanks with his men, and some Indians had arrived at my encampment. The effect of this great misfortune was immediately seen and felt in the vicinity of my post. The Wyandot Indians settled at Brownstown, who had previously shewn the most friendly dispositions, and given the strongest assurances of their neutrality, joined the British. For though they passed over under the pre-

tence of having been made prisoners, the circumstances which then occurred, left no doubt but that they had formed an alliance with the enemy.

This procedure of this tribe of Indians was not only evidence of their own, but of the defection of the surrounding nations, who are all united by some sort of confederacy, in which the Wyandots have a superior influence, that is acknowledged by the other tribes, speaking of them as their *Fathers*. When therefore I learned that this nation had joined the standard of the enemy—I knew that the Chippeways, Ottaways, Pottawottamies, Munsees, Shawonees, Senecas, and other tribes, who altogether could furnish between two and three thousand warriors, would also be an addition to his force.

At the same time I received intelligence as appears by another letter of mine to the Secretary at war of the same date (4th of August) that a British officer, with 35 regular soldiers and two brass field pieces, had landed on the west part of Lake Ontario—had penetrated to the head waters of the River Le French, and was collecting the militia and Indians in that quarter, to lead them against my army. From the information I had received, I had reason to think, and so I mention in my letter to the Secretary, his force would amount to six or seven hundred. The fall of Michilimackinac also changed the disposition of the inhabitants of Canada—and from the time that accounts were received of that event, there were no more of their militia came over to us. I had also been informed of the arrival of the British Col. Proctor at Malden, and it was generally believed that he had brought with him some reinforcements, as well naval as military. To the enemy's naval force I had nothing to oppose. By it, the enemy might command the Lake—obtain his supplies without the least interruption—transport his troops at pleasure—and co-operate with land-movements on the margin of the waters.

I had also intercepted a letter from a Mr. M'Kenzie at fort William, to a Mr. M'Intosh at Sandwich, dated the 19th of July, from which the following are extracts.

"The declaration of war reached us on the 16th instant, but we are neither astonished or alarmed. Our agents ordered a general muster, which amounted to 1200, exclusive of several hundred of the natives. We are now equal in all to 1600 or 1700 strong. One of our gentlemen started on the 17th with several light canoes, for the interior country, to rouse the natives to activity, which is not hard to do, on the present occasion. We likewise despatched messengers in all directions with the news. I have not the least doubt but our force will, in ten days hence, amount to at least five thousand effective men. Our young gentlemen and engagees, offered most handsomely to march immediately to Michilimackinac. Our chief Mr. Shaw expressed his gratitude, and drafted one hundred—They are to proceed this evening for St. Joseph's. He takes about as many Indians:—could the vessel contain them, he might have had four thousand more. It now depends on what accounts we receive from St. Joseph's, whether these numerous tribes from the interior will proceed to St. Joseph's or not."

At the time that this intercepted letter fell into my hands, I was informed by Lieutenant Hanks, that before he left Michilimackinac, several agents of the North-West Territory had arrived at that post after its surrender from fort William on the north side of Lake Superior, who stated that a large force of Canadians and Indians were collected at fort William, ready to descend the lakes—and that there was also a force of the same description collected at the outlet of Lake Superior. I was further informed by Lieutenant Hanks, that immediately after the surrender of Michilimackinac, which was on the 15th of July, the British commander had sent an express to Little York, and it was supposed that on the return of the express all the forces which had been collected and were collecting in the northern regions, would be ordered to Malden. The death of Lieut. Hanks deprives me of the benefit of his testimony. But this is sufficiently supplied by the evidence of Mr. Stone and Doctor Day, gentlemen who were at Michilimackinac when it surrendered, and who accompanied Lieut. Hanks to my headquarters at Sandwich—and Dr. Day was present when Lieut. Hanks made the communication to me. It may be said that this information ought not to have had any influence upon my conduct, because the northern Indians could not, and in fact did not arrive in a great length of time.

I presume that no testimony is wanting to prove to this court, that from the points where they were collected, they might have descended in a few days. The savages of our country have an advantage of all other troops in the celerity and facility with which they make these movements.—These too were to be added by the means of the North-West company, which were particularly adapted to transportation from the nature of their trade upon the waters of the lakes.

As to the fact that the northern savages did not arrive at Malden until long after the surrender—the testimony of Capt. Eastman is that he remained at Detroit 24 days after the capitulation—that the Saganau Indians, with about 60 warriors, arrived three days after the surrender—that the Michilimackinac Indians, with about eleven or twelve hundred warriors, arrived about the 10th or 11th of September.

It may be well to remark here, how formidable this force proved to be, although it was but a small portion of that which would have come had not Detroit been surrendered.—But can it be concluded that this force would not have arrived earlier, had not intelligence of the fall of my army reached them, which it must have done, a few days after the event happened. When information of so many adverse circumstances had reached me from various quarters, the fate of my army appeared inevitable. I had but one of two courses to pursue, and either seemed to me almost a desperate alternative. I must either advance or retreat. If I had seen nothing that I was to regard, but the power of the enemy, I had no doubt but that I ought to have adopted the former expedient. I was obliged to consider the effect a retreat would have in my own camp. The Young and inexperienced officers I had under my command, who could see no

danger that was not immediately before their eyes; who thought and said that they were very brave; but who, with a few exceptions, do not know it to this day, from any trials of their courage—who despised all precautions, and thought all generalship consisted in inconsiderate and impetuous advances; I knew well, would pursue the conduct which they afterwards did—and by representing a retreat as proceeding from the most unworthy and unjustifiable motives, destroy the efficiency of the army, by robbing me of its confidence. The Cabals which had risen to such a height as to mature a plan of mutiny, in which my chief officers were to be the *ring* leaders, could not be entirely concealed from me. Although, until I saw the confession published to the world by one of the conspirators, I did not know the extent of their design.

Under these circumstances, dangerous as the attempt on Malden appeared to me to be, I thought it might be less so than a retreat. I determined to attack Malden—and on the 6th of August, issued orders to have everything prepared for the movement of the army on the 8th; and gentlemen, there is no part of my conduct, since I have been a soldier, that I reflect upon, with so much self conviction of error, as I do upon this. I look back with regret upon the moment, when I yielded to the councils of the inexperienced officers I commanded, and determined to make an attempt which my own judgment did not approve—which was contrary to all military knowledge—and which even success might not justify. I thought, however, it was possible that if I were successful, and could possess myself of the enemy's fortress, I might possibly maintain myself there for some short time—and in that time, I hoped I might have some succour and security from my own country and her armies, that I had been led to expect would be operating below me.

On the 7th of August, every thing was in readiness for the intended movement.—But on that day at about one o'clock, an express arrived with letters to me from the commanding officers on the Niagara frontier,—two from Maj. Gen. Hall, and one from Gen. P. B. Porter. These letters were sent to me by express to inform me that a large force from the neighbourhood of Niagara was moving towards my army. But, what was more decisive in its influence on my measures was, that I learned from these letters, that I was not to expect that these movements of the enemy were to be checked, or that my army would be sustained by any operations against the enemy in any quarter. I found that the invasion of Canada and the whole war, were to be carried on by the 300 regular troops under Col. Miller, and the 1200 or 1400 militia which had been placed under my command.

I must here again beg leave to turn the attention of the court martial to the correspondence between the Secretary at war and myself, to remind the court martial of the reasons I had to expect supplies, assistance and co-operation, when I took the command of the North-western army—when I received these letters from Gens. Hall and Porter, my situation became embarrassing and distressing to a great degree. I had, but a few hours before, with what reluctance appears from the testimony of Gen.

Cals, yielded to the importunities of my officers, and given them expectations that I would lead the army against Malden. I had issued orders for making the necessary preparations, and fixed a time for the movement. I knew well, what would be the effect of disappointing the expectations which these measures had raised. But as Gen. M^r Arthur has testified, I told him, as commander of that army, I felt myself *responsible for its movements and its fate*. Under an awful sense of that responsibility, I determined to recross the river with the greater part of the army. In making this movement, I had no design of relinquishing the attack of Malden. My intention was to take post at Detroit, and there to wait until some naval force on the lake, and a co-operation from below, which from the beginning I had relied upon, and which the letters I had received from Gen. Hall and Porter gave me reason to expect would commence at some future, but probably distant period, afforded me some hopes of success, and of advantage from success.

My further intention was to concentrate my forces at Detroit, that I might from thence open and secure my communication with the State of Ohio; upon which, in my judgment, the salvation of the army depended.

This consideration had so much influence on my measures, not only at this time, but throughout the campaign, and in the final surrender, that it will be proper to present it to the court in such a view as that they may judge of its importance.

From Urbanna to the Miami of the lake is a perfect wilderness. Through this wilderness, a distance of 120 miles, and through a country of which the Indians were the inhabitants and proprietors, the army had to cut a road when they advanced; and it was the only road by which supplies of any kind could be received. From the Miami to the settlements on the Detroit river, the country is little better than a wilderness, there being only two or three little settlements—along the Detroit river the country is partially cleared and cultivated. The improvements extend from half a mile to a mile back from the river, and in part of these improvements, on the margin of the streights, is the road to the town of Detroit. The whole country from Urbanna to the town of Detroit is filled with savages; all of whom, with very unimportant exceptions, became hostile to us, and infested every part of the road which was not protected by an armed force. From the Miami to Detroit, a distance of 72 miles, the road runs so near the waters of Lake Erie and of the Streights, that the enemy having the command of these waters, could with the greatest facility transport from their shore, and from one point to another, detachments to intercept the communication. Their vessels too, would always afford them a secure retreat in case of disaster. There were in the whole Michigan territory less than 5000 white inhabitants, about 2000 of whom were settled along the Detroit river. The soil, though fertile, was but little cultivated; the inhabitants greatly relying for their support upon the supplies of fish and venison, which the woods and waters afforded. The territory has never furnished sufficient provisions for its own inhabitants. There are annually, as appears from the testimony before you, large quantities of pork

and beef brought in from the state of Ohio, and notwithstanding the testimony of some of the witnesses, I assert, that, at the time the army was in that quarter, they could not have taken the necessary supplies from the country, for any length of time, without distressing the inhabitants. It has been proved, that even in time of peace, the few troops who were stationed at Detroit, were fed by supplies from Ohio. The country afforded insufficient provisions for an army, or there could have been no necessity for furnishing G. Harrison from the western states at the immense expense which his supplies have cost. The testimony of Gen. M'Arthur affords some evidence of the state of the country in respect to provisions. He stated that from the morning of the 14th of August when he marched from Fort Detroit with a detachment, until the 16th, when they met with and killed an ox; in a march of near 30 miles; he saw nothing that was food for man, except some unripe corn and some honey. The opposite shores of the enemy were not more productive in supplies. The whole of the country bordering on the straits and on the Lake is a wilderness, except the settlement at Amherstberg and a very thin population on the banks of the Detroit river, and a small place on Lake Erie, known by the name of the New Settlement. Above, on the river French, at about the distance of sixty miles, is the most fruitful and valuable part of the country.

Independent of these settlements, which had been exhausted by the two armies, the whole is wilderness: after the fall of Michilimackinac, when all the lives of Northern Indians became hostile, and were let loose upon us; when the North-west company, as appears by the letter of Mr. M'Kentz, had arrayed against us their numerous retainers; and when the navigation of the upper, as well as of the lower Lakes, was free to the enemy, no supplies could have been obtained from the river French, or the bordering Country. It must be remarked that from the time the army arrived at Detroit, not one pound of provisions had been received—from the moment the declaration of war was known to the enemy, he had intercepted the only line of communication, and thus cut off all supplies.

It appears from a return made on the day the army arrived at Detroit, and which is mentioned in the minutes of a council of war, held on the 9th, that there were then in store

125,000 Rations of Flour, and

70,666 Rations of Meat.

This stock, as it was never replenished, must have been proportionably exhausted, at the time of the retreat from Canada, and at the time of the final surrender; and indeed would have been entirely so, had we not drawn, as far as we could, our supplies from the country; which every day became the more stripped, and the less able to afford them.

A return made to me by the contractor on the 25th of July, shews not only the quantity of provisions on hand at that date, but it shews, by a comparison with a return of the 9th of the same month, the rate at which the provisions were consumed.

This return has been proved and read in evidence; it is as follows,
 "Provisions on hand at Fort Detroit, 25th July, 1812."

10,000 Rations Flour,

21,000 salted Meat,

100,000 Whiskey.

It has been said by Generals Cass and M'Arthur, and by other witnesses, that they never heard complaints of a want of provisions--this is certainly true: there was not, previously to the surrender, an actual want or deficiency of provisions; our stores were not then entirely exhausted, but there was a certainty that they would soon be so.

Such then was my situation when I determined to retreat from Canada. I had above me hordes of hostile savages; I had below, an enemy in a fortress, which I believed to be a work of strength, and sufficiently manned for its defence; I found that he had been left at liberty to augment his force by drawing his troops from all other points. I commanded an army, the troops of which (except a few regulars of the 4th regiment) had no experience, and had never been tried; and this army was officered by men, the chief of whom had not hesitated to express, in the most indecent terms, his want of confidence in me. I was told that I must not expect any co-operation or assistance. I saw that my provisions would be soon exhausted, and that neither my own nor the enemy's country would afford supplies for any length of time: I saw that my only communication was cut off, and unless it were opened, the army would be subdued by want.

Under these circumstances I determined to recross the river, take the principal part of the army, not with an intent, as I have said, to relinquish the enterprise against Malden and the upper province, but to wait for a co-operation and assistance, which might afford more favorable prospects, and in the mean time, which I considered a duty of the first importance, to open the communication by which I could obtain supplies. An attack on Malden was an alternative, which as I have said, presented itself to my mind, it was one which I had the most powerful inducements to adopt: I well knew what rewards of honor and glory awaited an achievement which my country had been led to expect, with so much certainty and anxiety; I knew what were the expectations of my officers, and what resentment a disappointment would create; I knew a retrograde movement would expose me to censure, and to the malice of my enemies. But, in deliberating on this alternative, I could not but take into view the possibility of a defeat in the attempt, and the consequences which, as I have before mentioned, would result, not only to the army, but to the people of the Territory. A more decisive consideration however, induced me to reject this alternative; I then felt confident, and I do now feel most confident, that if I had attacked Malden, and had been successful, it would have been but a useless waste of blood. It would have been utterly impossible to have maintained the fortress. It must have fallen for want of supplies. It must be remembered that the waters of the Lakes were shut against us. There could have been no possible communication with the fortress, but by the road which I had cut through the wilderness. How was that road to be kept open? Most probably, after an engagement, or after carrying the works by storm, I could have taken into Malden but a few hundred men.

Could I have made sufficient detachments from the garrison to have per-

formed this service? Let it be remembered that Generals M'Arthur and Cass, censured me for sending so small a detachment as 200 men on this duty, and thought the force ought to have been double, or equal to one of their regiments: and when Colonel Miller with 600 men, 280 of whom were almost the whole of the regular force under my command, had defeated the enemy near Magnago, he thought it necessary to send to me for a reinforcement of 150 or 200 men, to enable him to secure his passage to and from the river Raisin, though his loss in the battle did not exceed 80, and though he knew at the river Raisin, he was to be joined by the detachments under Captain Brush and the companies under Captains Campbell and Rowland. If the road could have been opened, still no supplies could have passed into the fort without crossing the water, and on that the British had a force, to which we had nothing to oppose. If we had possessed the fort, it would have been pressed by the North-West company and its retainers from the north, with all the hosts of Savages of those regions. A British force no doubt would have approached it from Lake Ontario by the River La French—On the water it would have been attacked by the naval force—and all this it must have encountered, without the possibility of obtaining supplies, and without the least prospect of relief or assistance.

My judgment, Mr. President, may mislead me now, as it did then—but yet I think that if I had led the army I commanded to the conquest of Malden under such circumstances as I have stated, it would have been as great a crime as any of which I am accused.

Certain I am that I should have wanted that consciousness of having acted from the purest motives, and according to my best judgment, which has been my only consolation in all I have suffered.

If it be true as I have stated, and as I think the testimony proves, that the army had not provisions for any length of time—and that neither my own nor the enemy's country could have been capable of furnishing them—I need hardly state to the members of this tribunal, how important it was to me to keep open the road I had made through the wilderness—the only communication by which supplies could approach me.

In modern warfare the first great object of each contending party, is the resources of his enemy. The fate of armies is found to depend upon the abundance of their resources; on their security, and on the facility of keeping up a communication with them.

It has become a principle to manouver in such a manner as to cover the places from whence supplies may be drawn—not to go far from them: but with great caution—and never to cease preserving with them those connections in which the strength of an army consists, and on which its strength depends. These are the sentiments of a modern military writer of great celebrity. The experience of all military movements in latter times prove their correctness. I always felt the force of them. It was a great violation of these principles, and therefore, as I considered, a great mistake, to march the army I commanded, after the war had commenced, to Detroit—leaving a British garrison 18 miles in our rear, directly upon our line of communication; which, from its proximity to the lake and his force upon the water,

the enemy had the means of intercepting with peculiar facility. But the orders I received in the letter of the Secretary of war, which announced to me the declaration of war, were positive upon this point. They left me no discretion. I was to march to Detroit, and there to wait for further orders.

I had seen the necessity of keeping open the communication when I was on the march—and therefore I built and garrisoned block houses on the road. When in the enemy's country, I felt every day more strongly the force of this necessity, and therefore detached Major Van Horne on that service.

Whether that was a proper detachment, as it is made a separate charge, will be a subject of separate consideration, in a subsequent part of my defence.

After the defeat of Major Van Horne, and when I found the situation of my army, immediately before I left Sandwich, such as I have before described, I was perfectly convinced that no success, not even the capture of Malden, could save it from eventual destruction, if my communication with Ohio was not opened.

The court will recollect that Gen. M'Arthur and Gen. Cass, have stated in their testimony, that when they objected to the sufficiency of the force I detached under Major Van Horne, they each recommended that I should send him with his regiment on that duty. This shews what force in their estimation was necessary for the purpose. What force Col. Miller thought necessary I have already stated. If these gentlemen were correct on this point, my army could not have been in a proper situation—when I must have stretched back with nearly half, and the most efficient part of my command to insure me supplies. It must be recollected also that it was not a temporary detachment that would have answered any purpose. I must have kept always separated from the army a sufficient force to have kept open the road from Detroit to Ohio, a distance of about 200 miles. I do not believe that after the fall of Michilimackinac, when the savages became arrayed against us and infested every part of the road, my whole force would have been sufficient to have protected so extensive a line.

These, gentlemen, were the grounds on which I made a retrograde movement with a part of the army to Detroit. It was, from thence to open the only channel through which it could derive the means of existence. I repeat, my judgment may have misled me—if it did, it continues yet to mislead me—for every day that I have lived I have become more confident that I did right to leave the Enemy's country. Had I followed the dictates of my own judgment I should have made my retreat to the Miami, and there waited for co-operation and assistance.

The distance from thence to the Ohio would have been comparatively short, and I should have had no enemy in my rear but scattering savages, and he could not then have availed himself of the great advantage he derived from the command of the waters. For the reason that I did not do so, let me appeal to the testimony of the two officers next in command.

When I proposed this measure to Col. Cass, his answer was, that if I did, under the then existing circumstances, every man of the Ohio volunteers would leave me. His language was in substance, as he states it himself—that the volunteers would retreat with me, if they thought a retreat necessary: but as they undertook to judge that it was not then necessary, they would leave me, and not a man would retreat under my command. Col. Cass's testimony on this subject is in the following words. "I recollect a conversation with Gen. Hull, after the retreat from Canada, and before we went to the River Raisin, in which Gen. Hull suggested, that as he heard of no co-operation from below, it might be necessary to take post at the Miami. I think I told Gen. Hull that if, under existing circumstances, he took such a step, the Ohio militia would desert him to a man. Whether I told Gen. Hull so or not, I am confident it would have been the case." It may be well to remark, that this testimony of Col. Cass's is evidence of the insubordination that was among the troops. By whom and by what means it had been encouraged, the court may judge. Upon this part of the subject, that is to say the retreat from Canada, I have but a few more words to say. I retreated for the purpose of being enabled to take effective measures for opening my communication. The importance of accomplishing this design, I have endeavoured to shew. But it seems that the government, or whoever it may have been that drew the charges that are now before you, were also sensible of this importance; for one of the accusations that I am to answer is, that I did not keep open this communication; and yet the measure I took to accomplish this object, and which was the only measure that afforded any prospect of success, that is to say, withdrawing the army from Canada, is also made the ground of crimination.

I beg the court to notice that these reasons for the retreat, are such as I assigned for it at the time as well as now. For the evidence of this I refer to my letters to the Secretary of war of the 4th and 8th of August. My letter to Governor Scott of the 9th of August, and my letters to Governor Meigs and Col. Wells of the 11th of August. All these shew that I abandoned Canada, because I had ascertained that I would soon be surrounded by an overwhelming force; because my communication, if I remained where I was, would inevitably be cut off; and because I found that the few regulars and militia I commanded were to be left to carry on without any assistance or co-operation the offensive war, which the United States had declared against one of the most powerful nations on earth.

The surrender of the fortress of Detroit and of the forces in the Michigan territory under my command, is another charge against which I am now to defend myself. I beg the court to observe, that the course I am pursuing is to examine in the first instance, the propriety or necessity of these principal measures. The circumstances attending their accomplishment, being ground of distinct accusation, I propose to give them distinct consideration.

As to the point on which I am now about to make my defence, I must beg the court to bear in mind what I have said in relation to the de-

lay in attacking Malden, and to recrossing the river—Much of what I have said upon these subjects will be applicable to the charge now under consideration. The same facts are reiterated in the specifications in so many different forms, that it is difficult to analyse them, and might excuse repetition. But I shall endeavour as much as possible to avoid trespassing on the patience of the court, and shall not repeat what I have already said, further than may be absolutely necessary to make myself clearly understood.

The extent and state of the force under my command, at the time of the attack on the 15th and 16th of August, must be ascertained before my conduct can be duly appreciated.

The detachments under Cols. M'Arthur and Cass, consisting of 400 of the most effective men of their regiments, were absent on the expedition to the river Raisin.

On the morning of the 16th the Brigade Major Jessup, as appears by his cross examination, had, by my order, made a report of the effective men under my command. He stated the number as appears by a document before you, in the three Ohio regiments, to be 700, including the Michigan Legion and waggons—but not the Michigan militia. The armed inhabitants which some of the witnesses have mentioned, I presume were not intended to be included, and indeed should not have been. For, although it may have been agreeable to the disposition of some who have testified in this cause to mention them here, that they might swell my numbers in the eyes of the court—yet, I believe it will not be thought that I ought to have taken them into calculation, in estimating my means of defence. In the field they were only likely to be the first, to set an example of disorder, and in a siege they would only have increased the consumption of provisions.

Major Jessup says, that on the 15th he received an estimate from one of the adjutants of the number of men fit for duty. He thinks it exceeded one thousand. This estimate was not delivered to me—but was given to Gen. Cass the day after the battle, but for what purpose does not appear. I wish Gen. Cass had produced it on this occasion. Of the 1000, if there were so many effective, only 320 were regulars—that being Major Snelling's estimate of the effective force of the 4th regt. on the day of the surrender.

The rest of this 1000, were comprized of the Ohio volunteers and Michigan militia. In my letters to the Government, and my official account of the unfortunate termination of the expedition under my command, I have always spoken of the zeal and bravery of these troops in terms of respect, and I still think they merited all I have said of them in these respects; yet in estimating their probable services in an arduous conflict, I could not but consider their real character. My experience in the revolutionary war had fixed in my mind a distrust of the services of undisciplined militia, however ardent and valorous they might by language, and even by actions, when not before the enemy, make themselves appear. Indeed the organization of the militia corps I had with me was particularly calculated to create distrust with respect to them.

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All their officers held their commissions in virtue of an election, mediate or immediate, of the men of whom they were the nominal commanders.

My second in command, Col. M'Arthur has prefaced his testimony by telling you that at such a time he was elected Colonel—Col. Van Horn was elected Major—Mr M'Cormic was elected a Lieutenant. From what stations, what occupations these gentlemen were elected to high military rank I do not know—It would seem however that notwithstanding all the experience they have had in the field, they have not yet learned military language—or forgotten what were, probably, the phrases of their former occupations.

Gen. M'Arthur in describing the disposition he intended to make of his regiment in case of an attack, spoke, as he would of the gate of a cow-pen, of swinging it into the rear line of a hollow square—and most of the witnesses against me have spoken of the balance of a detachment, as they would of the foot of an account in a shop-book. Elected officers can never be calculated upon as great disciplinarians. In every station the elected will be unwilling to incur the displeasure of the electors; indeed, he will often be found to court their favour by a familiarity and condescension which are totally incompatible with military discipline. The man that votes his officer his commission, instead of being implicitly obedient, as every soldier ought to be, will be disposed to question and consider the propriety of the officer's conduct before he acts. This system has not only an injurious effect upon the soldiers, but it has a retro-active effect upon the officers. They, knowing how far they are responsible to their electors, and what deference is due from them to a majority of votes, are under the influence of their own feelings in intercourse with their superiors.

The court must have observed with what confidence the officers who have testified against me, have pronounced every thing to have been done wrong that was not done according to their advice. They seem to have thought that, when a council of war was called, it was to be governed by the laws of a town-meeting; and that a General was absolutely bound by the voice of a majority. The testimony of Major Vanhorne is a remarkable elucidation of the ideas of some of my officers in this respect. He seems to think that I was guilty of great violation of duty in not being careful to ascertain accurately the votes of the members then present; though, as it turned out, I had omitted to take the vote of a gentleman whose opinions coincided with my own.

Mr. President, my ideas of a council of war are, that it is called to advise the responsible officer, as to any question which he may think proper to submit to its members; that he ought to hear and weigh, with what deliberation circumstances will admit, their sentiments and opinions; but that after all he is bound to act according to the dictates of his own judgment, be the opinions of his officers what they may—And, inasmuch as the advice of a council will not in all cases justify misconduct—I hope it will not be considered that a measure, although it should have been wrong, or turned out unfortunate, must be condemned because it was not sanctioned

by a majority of votes. These are considerations which I think it necessary to impress strongly upon the minds of the court. It unfortunately happened that on most questions which I submitted to the deliberation of my officers, their opinions and mine did not coincide—and many of the witnesses seem to think that therefore they must be condemned—But such a principal will not, I hope, be adopted by this court. The decisions of the councils should have had the less influence, because it must be recollected that I could not, with the exception only of the officers of the 4th reg. call for the advice of any one, who had seen the least service or had the least experience: for, though most of the witnesses who have been produced on the part of the government have appeared with the titles and badges of high military rank—yet, it is certain that most of these gentlemen, when they joined my army, knew no more of the duties of a soldier than was to be learned from militia musters and parades about their own homes. What services they may have since performed to entitle them to the honours they have attained I am ignorant—and only hope that their elevated rank (as it ought to be presumed it was not intended it should) will not give them any other weight than they would have had, if they had remained in their former subordinate stations until they had given their testimony against me. These observations are made in reference to the principal part of the troops I had under my command—and to shew that, although, as men, they might be brave and patriotic, as I have always believed they were, and as I have always spoken both of the officers and soldiers—yet, from the manner of their organization, and from their want of discipline and experience, they were not that kind of force upon which a commander could feel in an arduous conflict the firmest reliance. So far as we had any opportunity of judging from trial, this want of confidence in forces of this description was justified. The expedition under Major Vanhorne was the only instance in which the volunteers acted by themselves in any affair of consequence; for the rencountre at the Aux Canards bridge (although both the officers and men behaved well) was but a skirmish, which could hardly be a test either of courage or discipline. The detachment under Major Vanhorne as he has testified, were not surprized. He had fully prepared them according to his statement to expect their foe—and yet his party was disordered by the first fire of the enemy. Notwithstanding all the gallant exertions which, as he has stated, he made, he was unable to rally them, or to prevent their flying in confusion, in the very first moments of attack, by nothing but savages.

In submitting to your consideration, gentlemen, the fate of the forces under my command, I must not omit, painful as it is to me to advert to it, the unhappy terms in which I was with my officers. They took no pains to conceal what they have here testified to, that they had lost all confidence in me—many of them manifested it, as appears from their own testimony, by the most indecent conduct and expressions. The court must recollect the language, which I forbear to repeat, that my second in command Col. M^rArthur (now *Brig. Gen.* M^rArthur) represents that he addressed to me when I proposed to him to remain with his regiment at Sandwich. Let it

be remembered too that the Brig. Gen. has stated, that when we were in the face of the enemy, and he might hourly have expected to be called to battle, he used this language, with an expectation that he would be arrested: with an expectation that at such a moment he would be put in a situation that he could not be called upon to use his sword. Brig. Gen. M'Arthur has said that these expressions were extorted from him by insinuations of cowardice. I meant no such insinuation. His declaration that he felt his single self able to carry the fortress at Sandwich against any garrison, left no room to doubt his own good opinion of his prowess. When Gen. M'Arthur addressed such language to me, I had never seen any thing that would have warranted such an insinuation as he conceives I made. But if any thing would justify an impeachment of that officer's courage, it would be such conduct at such a time. It may be thought that I ought to have arrested Gen. M'Arthur. It is not one of the charges against me that I did not—and therefore I shall not digress further from the course of my defence, than to say the peculiarity of my situation alone prevented my doing it. If I had taken such a step, I have no doubt his men who had elected him a Colonel, would have turned their arms against me, with as much alacrity as they *professed* to use them against the enemy. I might, and I believe I should have had a civil war in my camp. But to show what was the disposition of my officers towards me, I have only to refer the court once more to Col. Cass's (*now Brig. Gen. Cass's*) letter to government of the 10th of September, in which he states that he, and others had formed a conspiracy to wrest the command from me. Whether this was, or was not, a treasonable design, is not for me to determine. But what confidence could I place in officers, whose conduct had been such as they themselves have described.

I know, Mr. President, that my letters to the Secretary at war, and my official account of the surrender, may be appealed to on this subject. I wish they may be. What I have written of the volunteers and their officers is just—and what I yet say, they were brave zealous men. It is my pride that in the very hour of misfortune, I had the magnanimity to give them all the credit that was due to them, and to take upon myself the whole responsibility of a measure which I knew would be the subject of so much censure.

Would Sir, that I could have observed a little of the same spirit in my accusers! that they had been willing to take some share of the blame that is justly due to them! and that they had not, in the triumph of their own salvation on my depression, represented with the most uncharitable bitterness a man whose smiles they once courted.

I must be pardoned, Mr. President, for yielding to my feelings in these digressions. I have stated to you the numbers, nature and situation of the force which I had to oppose to the enemy. I shall now state what force he brought or might bring against me. I say, Gentlemen, *might bring*—because it was that consideration which induced the surrender, and not the force which was actually landed on the American shore on the morning of

the 16th. It is possible that I might have met and repelled that force—and if I had had no further to look than to the event of a contest at that time, I should have trusted to the issue of a battle. I beg leave first to examine what was the extent of the enemy's force, landed at Springwells on the morning of the 16th. Major Snelling who says he made some attempt to count the enemy's force, supposes that there were no more than 750 whites, of whom one third were regulars and the rest militia and volunteers. The number of Indians he could not ascertain. As he was going to his lodgings, after having satisfied himself about the white force, he saw he says some hundred and fifty Indians in array. He does admit, however, that there were some more on the back of the town, killing horses and stealing cattle. But it is very evident that Major Snelling, as well as other witnesses, meant to convey to the court an impression that they considered the Indian force very insignificant, both as to numbers and effect. And yet it is very extraordinary that when my conduct would be censurable in proportion as the Indian force in the power of the British might be considered numerous and effective, their numbers and powers are augmented—I am charged with having sent out too small a detachment under Major Van Horne. To prove that I did so the Major has testified that according to the information he received, there were 300 Indians crossed from the British side, the day his party was routed. It is necessary, to heighten my criminality, that in one instance the British Indian force should appear to be very small and very insignificant, and in the other very numerous and very formidable. It is well known however, that all the Savages in that quarter had, immediately after the fall of Michilimackinac, joined the British. I had had in council, between the 14th and 20th of July the chiefs of nine nations, whose warriors amounted to between two and three thousand or more. Is it not extremely improbable, that with a large force of this nature at their disposal, the British should have employed but a small part of it in their enterprise against Detroit? Is it not rather to be presumed that, in an undertaking in which they must have been very ambitious of success, they would have employed all their disposable force, whether white or red?

The force brought against me I am very confident was not less than one thousand whites, and at least as many savage warriors.

But it was not only against this force on our own shores I was to defend myself—their Batteries from Sandwich were effectually co-operating with them—and their ships of war were ready to lend them assistance in the moment of attack, to cover their retreat, and to afford them shelter in case of defeat.

If the British landed at Springwells were not much more numerous than my own troops, I knew they must have a powerful force in reserve, which they could bring to operate upon me, either by crossing them above the town of Detroit, or by transporting them in their ships to that point—and thus attack the fort on all sides, and place my army between their fire. I should not however have yielded to all these considerations, had the war I was carrying on been only against civilized men. In that case, those only who were in the contest would have suffered. But I knew how sanguinary

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and remorseless the savages would be, should my army be subdued and the troops be obliged to yield. The whole country would have been deluged with the blood of its inhabitants.—Neither women nor children would have been spared.

The large detachment which was out under the command of Colonels M'Arthur and Cass, of which I could get no intelligence, and the detachment under Captain Brush at the River Raisin, would, most probably, have been the victims of savage fury, which is always excited by battle, and rendered more sanguinary by victory. Those appeared to me the certain and dreadful consequences of unsuccessful resistance.

If after a conflict, I should have been able for that time to have repulsed the enemy, I might have purchased fame, and have avoided all I have suffered and what I now suffer, in being obliged thus at my time of life to vindicate my honour and plead my cause before you. But at what price should I have done this? How many of the lives of the brave men I commanded would it have cost? How many of the persons who now appear to witness against me might I not have sacrificed? It might indeed, Mr. President, have given me an honourable grave, and if mine were the only life concerned, I wish it had been so, rather than that the foul crimes of which I am accused, should be coupled with a name to which my country of late as well as heretofore, has acknowledged some obligations.

But I had rather even that this should be, and I would rather stand before you accused as I am, than have uselessly and wantonly sacrificed a single life, though it should have ensured me immortal fame.

If the attack of the enemy had been repelled, our triumph would have been but temporary. My numbers must have been diminished by loss in battle. They would have daily lessened by the cannon of the enemy, from the opposite shore. The force of the enemy, augmented as it was by reinforcements under Col. Proctor, Major Chambers, and the commander in chief, Gen. Brock, would have been daily augmenting.

The force from Michilimackinac and St. Joseph's which would have amounted to several thousand savage warriors—the savages, with the addition of some hundred white men mentioned in the intercepted letter of Mr. M'Kenzie, collected at fort William, would in a few days have descended upon us—the Canadian militia had all returned to their allegiance—the enemy's naval force and means of transportation on the lakes were augmented. There was no co-operation with my army from any quarter—the letters I had received from Generals Hall and Porter had not only satisfied me that my expectations in this respect were disappointed, but that no diversion in my favour was soon to be expected. My army was in a corner, surrounded by a wilderness of waters and a wilderness of woods—all communication with my country, either by land or water, cut off—my stores of provision and ammunition but sufficient for a short duration—add to all this that, at the moment of expected conflict, I received information that a part of my own troops had gone over to the enemy, and that a larger body were about to join him.—Under such a combination and pressure of adverse circum-

stances, the army must have yielded in a little time, notwithstanding any temporary success—I did not think I should be justifiable or even excusable if I risked a Battle when victory could purchase no real good; and when the consequence of defeat, or even the consequences of being driven into the fort, would be to submit the whole country which I was sent to protect, and that part of my force which was on detachment, to the ruthless ferocity of Savages, armed with the horrors of those instruments of carnage and torture which are known to spare neither age or sex.

From such a calamity I knew a capitulation would be a protection.

The British, if made master of the country, without a battle, would be able to restrain their merciless allies, which they could not do after a contest, even if it should be only so far successful as to oblige us to retreat into the fort. A savage will have blood for blood, though he draw it from the veins of the defenceless. Victory only heightens his inhuman thirst for blood.

I offered a capitulation and surrendered.

"I Well knew the high responsibility of the measure, and take the whole of it upon myself. It was dictated by a sense of duty, and a full conviction of it's expediency. If ought has taken place during the campaign, which is honourable to the army, my officers are entitled to a large share of it. If the last act should be disapproved, no part of the censure belongs to them." These, Sir, are the words of my official communication of this unhappy event to the Secretary of war. I repeat them—it was, sir, a sense of duty which drove me to the measure. It was a sense of what I owed to the protection of the inhabitants of the territory I had so long governed. I felt myself bound to sacrifice every private feeling, and, in spite of themselves, to save from useless waste the blood of the brave men I commanded. Nor, sir, will I conceal, that, in the midst of carnage that might ensue a battle, my parental feelings saw a daughter and her offspring, who were with me in the fort, bleeding under the tomahawk of the Savage.

If these be considerations unworthy of a soldier, then I am without excuse—then indeed you may pronounce your utmost doom—But do not let me transmit to my posterity a name tarnished by the foul crimes imputed to me—I say I am as free from the sins of that black catalogue as any man who hears me—But if a propitiation be necessary, and it must be the remnant of the life of a man whose country has heretofore acknowledged his claims to her gratitude—and who has not ceased to deserve it—Here is one that I offer—I would freely part with it, if you will not take from me and from my family and posterity my honour and character.

It appears that the view which my officers had of our situation at about the time of the retreat and surrender, was very different from what it would appear to have been from the testimony they have given before you—at least the observation applies to Gen. Cass.

The testimony of Mr. Silliman (the General's brother-in-law) of Mr. Mills, and of Mr. Converse his neighbour, proves that in letters written by him at the times to which his testimony relates, he had different sentiments from those he has here expressed. In a letter of the 3d of August,

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at which time we were in possession of the enemy's territory and all the resources that might be drawn from thence, Gen. Cass tells Mr. Silliman, that provisions would become necessary for the existence of the troops. In a letter to Mr. Silliman after the fall of Michilimackinac, Gen. Cass says, that the impression made by the fall of Michilimackinac, could scarcely be conceived. In the same, or some other letter, according to the testimony of Mr. Silliman, Gen. Cass pressed him to use his influence to procure reinforcements for the army, and expresses his surprise that we were left without co-operation—by putting to his correspondent the following interrogation. "Is there nothing to be done in the lower end of the lakes to make a diversion in our favour?" In a letter from Gen. Cass to the same gentleman, dated on the 12th of August, Gen. Cass says "think our situation as bad as you may, it is still worse."

It is most unfortunate for me that I have in the course of the prosecution so often to feel the want of documents. I want to prove the contents of a memorial which was filed on record in the war department—I ask for the record and it is lost. I am impeached for not having regularly issued orders to the army. The witnesses who are to support this charge, prove that there were orderly books in which my orders were entered; but they have either been lost, or, what is more extraordinary, left at home. Capt. McCormick has an orderly book—but, when he was called here as a witness, he left his book behind him. Other officers seem very unaccountably to have thought the order to ship the baggage at the Miami, included their orderly books—and they have been lost by that means. And now these letters from Gen. Cass to Mr. Silliman, the contents of which it might be so important to me to contrast with the General's testimony, it appears, were entrusted to the General's *Wife*—and they too have been lost.

But, I ask the court, do not even the slender accounts which we have had of the contents of these letters, shew that Gen. Cass, at the time they were written, did believe that the army would be in want of provisions? that reinforcements were necessary? that the fall of Machinac was to have a decisive operation on the fate of the army? that our hopes rested on co-operations from below—and that the situation of the army was critical in the extreme? If these were Gen. Cass's sentiments when he wrote the letters,—I must leave it to the court to reconcile them to the testimony he has given.

The court then adjourned to meet to-morrow morning at 11 o'clock.

Thursday morning, March 17th, 1814.

The court met pursuant to adjournment.

Present all the Members.

General Hull appeared in Court, and proceeded to read his defence as follows.

I now appeal with some confidence to this tribunal for their decision upon the accusations which I have hitherto considered.

Were either of the acts, to which the attention of the court has been directed, in themselves and abstractedly considered, unjustifiable; or rather, (and this is the true question,) was either of them so manifestly wrong,

or egregiously erroneous, that it is, of itself, evidence of treason, cowardice, or officer-like conduct? Are there not so many reasons for my conduct, in regard to these transactions, that I may be supposed to have acted honestly, though it should now appear to the court that it was erroneously.

If an act may have proceeded from pure intentions, it would be the height of injustice and misanthropy, to impute it to bad motives.

I shall now proceed to make my defence against the other accusations: I shall endeavour to arrange them in the order of time, in which the facts, by the specifications, are supposed to have occurred.

Hitherto, Mr. President, my defence has chiefly rested on documentary evidence, or upon facts of general notoriety. As to all that follows, the charges depend entirely upon parole testimony.

It seems extraordinary that there has not been a witness examined, on the part of the prosecution, who has not been promoted since he was under my command.

A great majority of the young gentlemen who have been called by the Judge Advocate, have appeared decorated with their two epaulets—these have been bestowed, and sometimes with the augmentation of a star, upon Gentlemen who began their military career with my unfortunate campaign.

By what services many of these gentlemen have merited such rapid promotion, I have not learned! But if it all arises out of their achievements while under my command, I must say that it appears to me, that my expedition was more prolific of promotion than any other unsuccessful military enterprise I ever heard of.

It cannot be that it has been intended to give a weight to the testimony of those witnesses by giving them ranks and honours which they would not otherwise have had. But Sir, when my military character and measures are to be tested by the opinions of Gentlemen, with high sounding titles of military rank, I think it necessary to remind the court, that, with the exception of a few of the younger officers, there are none of them who have not been promoted to their high stations, without having had any military experience—and without, so far as I have heard, ever having discovered any military talents or genius.

If the opinions of witnesses on military conduct, ought in any case to be listened to (which I conceive ought not to be) yet, I think, the opinions of men of these descriptions, ought to be received with the greatest caution.

The extraordinary promotions which the witnesses against me, have generally attained, I think may be accounted for, by a recurrence to the facts, of which this trial has afforded the most conclusive evidence—which is—that each of the witnesses, from the Generals to the youngest and lowest officer that has been called by the Judge Advocate, is himself in his own opinion, at least, a *Hero*.

From General M'Arthur, who thought himself capable of fighting a whole garrison, down to the lowest rank, every officer seems to have thought that if he had been the commanding General—or if I had taken his advice—all would have gone well—no doubt they have in justice themselves made these representations to the Government—and their ranks must be considered

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as a reward for the great things which they said they would have done rather than to have been acquired by any actual services.

But, gentlemen, before I proceed to examine the parole testimony, let me call your attention to another subject connected with it—I mean the indefatigable pains which have been taken to propagate and keep alive the most hateful prejudices against me. Sir, I believe there never was a greater outrage committed on the administration of justice, and towards an individual, than was the publication of Colonel Cass's (now *Brigadier General Cass's*) letter to the Government of the 10th of September.

That such a letter should be published under the sanction of the administration against a man whom the administration was about to put upon trial for his life, I believe, is a proceeding of which no country on earth has before afforded an example. That the administration should, under such circumstances permit the publication of such a letter as General Cass's—*one that labours to represent my conduct in the most odious point of view, and takes pains to heighten the public resentment against me by a colouring which Colonel Cass could not know of his own knowledge was true, appears to me to be a violation of every principle of justice.*

The court will please to recollect that Colonel Cass and M'Arthur left Detroit with the Detachment to the river Raisin on the 14th of August—and did not return to the fort until the evening of the 16th—of course they could not know of their own knowledge, what passed in the interim.

No person reading Colonel Cass's letter but would suppose he was an eye witness of all he relates. It is impossible to discover that he was absent in the expedition to the river Raisin—yet General Cass states, as if it was a matter within his own knowledge, that when the troops received orders to retreat into the fort—"one universal burst of indignation was apparent upon the receipt of this order." I beg to quote from this letter another paragraph, to shew what was the spirit with which it was written. The design of its publication I must leave the court to infer.

"To see the whole of our men flushed with victory, eagerly awaiting the approaching contest—to see them afterwards hopeless, dispirited, and despairing—at least—five hundred shedding tears—because they were not allowed to meet their country's foe, and to fight their country's battles, excited sensations which no American has ever before had."

Would not every one imagine that Colonel Cass was here describing a scene, which passed before his own eyes.

Did he actually see at least five hundred men shedding tears—or does the court believe that this is a representation of a fact which really occurred. If it were so, it is extraordinary that not a witness has testified to it. Captain M'Commick says he observed some men shedding tears—but this falls greatly short of General Cass's five hundred. But who were these weeping troops. It is not to be presumed that it was intended that we should believe they were the regulars—they are not commonly much given to weeping—they were not the Michigan militia, because a part of them deserted—and the rest were disposed to go over to the enemy, rather than

fight him. The men then who shewed this very extraordinary sensibility must have been Colonel Cass's patriotic volunteers—The same *volunteers* who mutinied in the camp at Urbana, and would not march 'till they were compelled to do so by the regular troops—the same *volunteers* who rode the officers of one of their companies on a rail—the same *volunteers*, one hundred and eighty of whom refused to cross into Canada—and the same *volunteers*, who, when they had an opportunity under Major Van Horne to gratify their eager wishes to meet the enemy in combat, ran away at the first fire and left their officers to be massacred.

If General Cass did not witness this scene, why did he make such a representation. There can be no other reason, than that this kind of inflated description, was intended to recommend himself to the Government, by representing himself and his troops in the most favourable point of view—and me in the most unfavourable that even hyperbolical language would admit.

Sir, these are not the only means that have been resorted to, to excite and keep alive the popular clamour against me—others of my officers, finding what favour the publication of his letter gave him in the eyes of the administration, have seen that the same road of preferment was open to them—and the newspapers from one end of the continent to the other, have been filled with letters concerning me, expressed in terms, which neither truth, justice, or even the laws of decorum can sanction. Down to this very time, Sir, the same system is pursued. Now while I have been on my trial, publications have appeared in the public prints of this city, commending the principal and leading witness for the manner in which he gave his testimony against me, that those who were to come after him might be encouraged to follow his example. And Sir, at this very moment, at the very door of this building, is hawked for sale, a work printed within these few days, in sight of this capitol, entitled, views of the campaign of the north western army, in which my conduct and motives are most grossly misrepresented. Who are *they* that thirst so for my blood, and take these means to obtain it. It is not the ostensible author of this performance—his insignificance, and the contemptible talents employed in the work, shew him to be too mean to have a motive of his own. I know not who may be the authors or instigators of such outrages upon justice—if such things are permitted, and can have any influence, then the *scales* ought to be *born* from the hand of the figure which adorns the Hall wherein you sit. She ought only to be left the sword, with which she is decorated—and she ought to waive that as an *emblem*, that *vengeance* and not *justice*, is administered under this roof. But, gentlemen, for whatever purpose these acts may have been intended, I rely with a perfect confidence that you will rise superior to them. If I wanted other assurance of it, than that which is derived from your characters, I should have it in the patience and impartiality with which this prosecution, so far as depended on you, has been conducted.

Before I enter on an examination of the parole testimony, I must be permitted to remark, that I cannot but think that the course which has been pursued, of examining each witness in the presence of the rest, has been unfortunate for me. 'Till this court decided that it should be so, I did

think it was a well established rule of martial law, that the witnesses should be examined separately. The justice and propriety of this rule, I have very sensibly felt on this occasion. In a case where so much may depend upon the language or phrases in which the witnesses express themselves, it would have been desirable that each should have been left to the necessity of selecting his own language to express his meaning. But according to the course pursued, each witness was at liberty to adopt the words which had been used by any other witness on the same point. The disposition of several of the witnesses to do so has, been very plainly manifested, by their answering, when interrogated as to my personal behaviour, that it was the same as had been represented by a prior witness.

It is true gentlemen, that the Judge Advocate would not accept these answers, and I presume has not taken them down—but they nevertheless shew the natural disposition of the witness to borrow the words of another, and I have no doubt they have, very conscientiously, and often without knowing it, borrowed ideas also.

Gentlemen, in these courts martial, where the members, among whom there may be great inequality of grades, are intended to be put upon an equal footing as judges, care has been taken to avoid, as far as possible, the influence likely to arise from authority. It is on this account, that the opinion of the youngest member is always taken first. And it was on the same account, as I conceive, that the rule was established, that witnesses should be examined separately—that the younger might not be influenced in his testimony by what might be said by the superior. It would be contrary to experience of the human disposition, to suppose that after a subaltern has heard two or three Generals and officers of higher rank than himself testify, to whose authority he is perhaps subservient, or to whose good word he may have owed, or expect to owe his promotion, he will be willing to contradict what his superiors have said, or even to make a representation which will vary from theirs.

If on any case, Sir, the weight of this sort of influence could be felt on the testimony, the course pursued on this occasion would give it the fairest scope. For the witnesses seem to have been arranged and produced in the first instance, very much according to their rank (except Colonel Miller) after the generals had been examined, then came the subordinates. The exception to this general course as to Colonel Miller struck me as a little singular. I did not know why he should have been examined the last, particularly as he was the highest officer of the regular army who had been engaged in the campaign. He was with me during the whole time, and had the most intimate knowledge of the transactions to which the other gentlemen testified. But when I found that Colonel Miller's testimony was much less unfavourable to me, than the testimony of the witnesses who had preceded him, and that he would not support them in the most material parts of their testimony, I was at no loss to account for this course of proceeding.

The charge of another-like conduct, which I shall consider, is specified under the fifth article of the Articles of War, and refers to the commencement of the

It is, in substance, that from the time I took the command, I omitted to exercise, inspect, train, review and order the troops. I cannot believe gentlemen, that it will be necessary for me to say much on this subject. I did expect that if any part of my conduct could have escaped the censure of my enemies, it would have been the manner in which I led the troops through the wilderness. When it is recollected, what an extent of road it was necessary for me to cut;—that a great proportion of the men were constantly employed in this duty—that those who were not so, were most generally fatigued with their turn of this laborious service.—I believe the court will think with Col. Miller, that there was neither time nor opportunity for that sort of discipline and exercise, which, under other circumstances, would have been proper. The commandants of regiments have testified, that as to their respective commands, there was no omission of what was their duty in this respect. The fault charged to me, is then, that in the depths of the forest, through which we were marching, I did not call off my fatigue parties, guards and advances, and go through the ceremonies of military parade.—And yet, as if every thing that I could have done, must, in the opinion of my officers, be condemned—my omissions to have these parades, are not more severely censured, than my conduct has been for making some display of the troops, and in passing them in review, on some few occasions, when I thought it was consistent with our situation. When the corps passed me by sections, after we had crossed the Miami, Gen. M^rArthur thinks it was not a review—because I was not according to his experience, in the situation which a reviewing General ought to have been; though he admits that the officers at the heads of sections saluted me—and he admits that it is possible he might have saluted me himself. At the River Raisin I also passed the troops in review—I did the same at Spring-wells, and marched the troops from thence to Detroit and back. But these parades seem to have excited the indignation of General M^rArthur, as if did, according to his testimony, of other officers—but for what reason, I have not been able to learn. The truth is, that from the moment we commenced our march, the troops were always under my eye. I saw them on their line of march—I saw them in their working parties, and in their encampments. I thought it would be as ridiculous as useless, to make parades in the midst of the woods—whenever the country opened, so that there was room for display, I availed myself of it—not only that I might see the troops, and put them in military array: but I thought it would have a good effect to shew our line to the best advantage at the little settlements which we passed—and on our arrival in the neighbourhood of Detroit.

I shall trouble the court with nothing further in relation to this charge, than the following quotations from General Cass and Colonel Miller's testimony. General Cass states that "from the time they left Urbana, the march was conducted with all possible expedition. There was no time to discipline the troops."—Colonel Miller on his cross examination says—"on the march there was no opportunity to discipline the troops.

The fatigues of the march, and cutting the road, and making the encampments, were as much as the troops could endure."

Commented with the accusation which I have last answered, is another, which is in substance, that I did not, during the march, prepare and make known an order of battle. That I prepared and published an order of march, is admitted—a plan of it, which has been proved by several witnesses, is before you. This plan as appears from the testimony of General Van Rensselaer and other witnesses, is that which was adopted by General Wayne, in the expedition which he commanded and marched through the same country. This order of march, was in fact, an order of battle—or at least, so little change of the disposition of the troops was necessary in case of an attack, that it could be made in a moment; and was so obvious, that it could never be mistaken. It is remarkable that the commanding officers, whose testimony was expected to support this accusation, all say, that they knew how their respective corps were to form, in case of attack—though, as they say, they never heard of any order of Battle. It seems then, that an order of battle was made known,—and the accusation must then rest upon the allegation; that the order was not made or published by me. General Cass's testimony on this subject, is as follows.

"I think when we arrived near the river Huron, or between that and Swan creek, the commanding officers of regiments, under an expectation of an attack, applied to the General—and he permitted them to form an order of battle: I do not recollect that the General assisted in making the order. I think the plan originated with Colonel Miller—I do not recollect that the order was afterwards submitted to General Hull. I presume there was an orderly book, as orders were issued."

General M'Arthur's testimony on this point is as follows—"on the day we passed the river Raisin, our march was about nine miles, and we encamped near Swan creek. Rumors were among the inhabitants that we should be attacked by Indians who were assembled at the Huron, about six miles in advance—myself and Colonel Findlay called on the General, and stated that some plan of battle ought to be agreed upon. In the march my regiment was divided—a Battalion marched on each side of the road, in the rear of Colonels Findlay and Cass. I mentioned to the General that thus situated, it was impossible for me to be with both my Battalions, and I wished to be permitted, in case of attack, to form them in one line. The General thought it would be well enough to do so. I suggested the propriety of my battalions being so formed on the march in the rear of the regiments, as that in case of attack, I might swing my regiment round, and form the rear line of a hollow square. The General gave me his permission to adopt this plan. I then left him. *Whether I left the other officers with him or not I do not know.*"

Major Jessup testifies that I issued orders on the march—that they were generally sent to him by one of my aids de camp—that he assembled the adjutants and communicated to them my orders. He further stated that the orderly books generally were surrendered—but that Capt. M'Cormick

and Capt. Rutleff who were adjutants of M'Arthur's and Findlay's Regt had preserved their's. It unfortunately happens that these books have not been brought on by these gentlemen—had they been so, it would then have appeared what orders I did issue—and this matter would not have been left to the uncertain recollection of witnesses.

As I am accused of having omitted to issue orders, and of having given improper orders, I submit to the court, whether I had not a right to expect that the orderly books which were in the possession of witnesses brought forward by the prosecution, would have been produced? especially as I requested Major Jessup might be summoned with a *duces tecum*, to bring before the court all the official documents in his possession, and the orderly book. But I proceed to examine the testimony, in relation to the order of battle. Colonel Miller testifies—"That an order of march was published at Urbanna—and was generally known to the army.—That the army commonly marched according to that order.—It was my understanding, says Col. Miller that in case of an attack in front, my Regiment was to form the line in front. In case of an attack on the right flank, we were to form by facing the enemy—and so in case of an attack on the left. This was a general understanding—but I do not recollect to have seen any order to this purport, either written or verbal. I understood it from a conversation with Gen. Hull, and I believe it was so understood by the other officers. The General told me that the order of march which he had adopted, was that which had been pursued by Gen. Wayne. I know nothing to the contrary." Col. Miller adds—"of the Generals having been almost always, when we were on the march, in a situation to direct the movements of the troops—for the greatest part of the time the Gen. rode near me in front—sometimes he passed to the rear. Generally the army encamped in a hollow square. After we apprehended danger, we commonly formed a breast work, and encamped within it. By a general order each line was to form in front of its tents, if attacked in camp. There was also a general order for turning out the troops by taps of the drum, proceeding from head quarters along the lines. This method was practised, and the troops were called to arms every morning before dawn, by these signals."

I believe, Gentlemen, that this is the whole of the testimony on this point, which can be considered as of any importance. It cannot be disputed then but that there was an order of battle. But General Cass's testimony seems intended to leave an impression that the order did not originate with me—but that it was suggested by my officers, and adopted by them with my consent—without my having given myself much trouble about it. I cannot but think that in this instance, there is a display of the spirit, with which much of the testimony has been given in this case. It seems to have been determined that I shall not even share in the credit of any thing that was done, that ought to have been done, my officers claim every thing that is meritorious as theirs.

General Cass says, he does not recollect whether I assisted in making the order—or whether it was submitted to me after it was made. This is one of the instances, in which it is extremely unfortunate for me that the

recollection of the witnesses entirely fails them, as to matters of the greatest importance, and which might be decisive, if in my favour, as to the particular accusation; while their memories serve them with remarkable correctness and minuteness, as to circumstances which are unfavourable to me.

I hope I may be permitted to digress, so far as to remark another instance of the unfortunate want of recollection, though it relates to a different point.

Major Jessup after having stated that he came to me in the fort, after the flag was hoisted on the 16th of August—adds—“I enquired of the General if it were possible we were about to surrender—the General said something about the enemy’s force, and something about terms, which I do not recollect.”—Major Jessup then goes on to state very particularly what he said to me to express his strong aversion to the surrender. I have surely great reason to regret that Major Jessup’s memory would not enable him to state what I said, when it might have been so important to shew the motives of my conduct,—while every thing that he said to me, which was calculated to set his own conduct in the most favourable point of view, made so deep an impression on his mind, that he could undertake to relate the very expressions he had used. But to return to what respects the order of battle.

General M’Arthur states that after, on his suggestion, he had settled with me, how he was to *swing* his Reg. in case of an attack—says—“I then left the General—whether I left the other officers with him or not, I do not know.” It appears then, that this arrangement about the order of battle, was concluded in the presence of other officers—what others, General M’Arthur does not state. Col. Miller says he understood from conversations with me, what was to be the disposition of his corps in case of an attack.

Thus it appears that Col. M’Arthur, Col. Cass, Col. Findlay and Col. Miller all knew what they were to do, if an enemy was to approach us. What foundation is there then for a charge that no order of battle was made known? If the subordinate officers were not instructed as to their duty in the event of an attack, was it not the fault of these commandants of corps, and not mine? Suppose there had been no written order of battle—but that after the order of march, which so nearly approached the order of battle, had been formed, I had explained to the commandants the disposition I intended, in case of an attack—could any man say I was deficient in duty, because I had not explained my intentions in a written order? I believe *no* one acquainted with military history or practice will think a General is bound to make an *exposition* of his *plans*, in every orderly book in his army. If the witnesses, on whose opinions these charges and specifications, have been framed, have entertained such erroneous *ideas* of the duties of a commander, as this accusation seems to indicate, I hope, now that *some* of them have attained a rank which may give them the command of armies, they will learn, that by giving a general publicity in their orderly books to their designs, in case of an attack it will be a departure from their duty—

and that they may often thereby give their enemy an opportunity of gaining information which he ought not to have.

As to the order of battle at night; it is proved by the testimony of Col. Miller that that was settled by a general order, which was made known to all—and when the court considers what was the nature of our lines of march—how nearly it approached the only order of battle, which could have been proper in the warfare which we were to expect—how instantly the order of march was made the order of battle—and consider also, that I was always at the head of the troops while they were on the march—I am persuaded the court will think there is no foundation for this accusation—if it has not originated in malice, it certainly has in ignorance. I am unwilling to detain the court longer on a charge, which in my opinion is sufficiently answered. But I know I ought not to place my confidence in my own opinion, as not to avail myself of any testimony which may have an influence on the opinions of others. I must therefore, submit to other testimony, which I believe, ought to be conclusive on this point. I mean my letters to the war department. Those to which I shall refer for this purpose, the court will recollect, were read by the Judge advocate. If I had offered them, they certainly would not have been conclusive evidence in my favour—but when introduced on the part of the prosecution, so far as they establish any thing in my favour, they are as good evidence as they are to prove any thing against me. It would be a manifest violation of justice, if this sort of testimony should be resorted to for my conviction, and I should not be permitted to avail myself of it, so far as it might serve for my exculpation. It is a general rule, which applies to the administration of justice in all courts, that wherever a document is read by one side the whole of it becomes evidence, of which either party may avail himself. I beg leave to remind the court that this rule has been acknowledged by the Judge advocate. The court will recollect, that in the course of the examination of Capt. Fuller, Major Parker objected to take down his answer to a question which I put to the witness, as being unnecessary, because the fact as to which I interrogated him, was sufficiently proved by my letters to the Secretary at war. In my letter, dated Solomon's town, 18th June, 1812, I say—"my order of march is in two columns, with strong front and rear guards. The columns flanked by the riflemen and cavalry, where the ground will admit—the baggage, provisions, &c. between the columns. The army has been practised from the two columns to form two lines, either in front, rear, or on either flank—or to form a square facing outward—my order of encampment at night, is a square, facing outward with all the baggage in the centre, &c."

My letters of the 24th June, 1812, from near Blanchard's creek, inclosed to the Secretary at war the order of march which has been given in evidence. Among the manuscript notes subjoined to that order, is one in the following words—"The columns are in a situation to form two lines in front, rear, or on either flank, or to form a square."

After these observations, I cannot but be satisfied, that the court will think that there was no ground for charging me with neglecting to disc-

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plise and review my troops, or omitting to prepare, and make known an order of battle.

The next accusations that I shall consider are, that I neglected to repair and put in order the cannon at Detroit, and to put the place in a state of defence—that I did not seasonably repair and put in a state of service, the artillery necessary for the operations in Canada; and that I did not transport them to the enemy's shore, as soon as I ought to have done. I have already had occasion, incidentally to notice these accusations—and I shall give no further answer to them than to refer the court to the testimony of Capt. Dalliha. He states that, when I arrived at Detroit—"The fort was generally in good order, and in a good state of repair"—on his cross examination, Capt. Dalliha says—"The fort was in the state of defence I have described, except as to some immaterial matters on the 4th day of July, before the arrival of the army. Afterwards something was done with the ordnance stores, and mounting the cannon. But every thing designed for the defence of the fort, exclusively, was completed on the 4th of July.—After the General's arrival at Detroit, industry and exertions were used to put in order the field pieces and heavy artillery for the siege of Malden. This was done (says the witness) under my superintendance, and by order of Gen. Hull."

This witness was examined on the 8th of Feb. four days afterwards—on the 12th he is again called by the Judge advocate, and then he testifies as follows: "I had before stated that no alterations had been subsequent to the 4th of July for defence of the fort. Some few artificers immediately after the arrival of Gen. Hull, went to work to repair and mount some heavy cannon on trucks, to be placed in the batteries on the banks of the river; and some repairs were made to three brass field pieces, and a small quantity of ammunition was fixed for them—But no order was received to my knowledge, to prepare the heavy field artillery until after the army went to Canada. I have the order, and think it was dated on the 15th or 16th of July."

I have already made some remarks on this testimony, and stated that the order was in fact given on the 14th of July—until that time the artificers had been otherwise employed. I will remind the court here of the objection offered—and which was over-ruled by the court, to this mode of re-examining a witness. If to examine the witnesses in the presence of each other, be a departure from the usages of courts Martial, it is certainly a much wider and more important deviation from that usage, to call up a witness, and to allow him to make important alterations in his testimony, after he has been listening for days to the testimony of other witnesses.

I now mark this irregularity, as I conceive it to be, for the sake of presenting it, as well as the fact of all the witnesses having been, pursuant to a determination of this court, examined in the presence of each other, to the attention of the high officer, who has authority to review these proceedings. Colonel Miller testifies that he "discovered no want of execution, in respect to preparing the heavy and light field artillery, after the army arrived at Detroit."

General Taylor says—"I believe no time was lost in preparations—timber and some large wheels were got out." Again the same witness says—that he visited the artificers every day, to hurry the preparations, with orders from General Hull—"and I must say, (adds the witness) that General Hull shewed great anxiety in getting the artillery ready. I pray leave to make one remark on this language of General Taylor's, which I am aware may have the appearance of being hypocritical. But I beg the indulgence of the court, 'till I have explained my reasons for noticing a circumstance apparently trivial. Why should General Taylor preface his testimony of this fact in my favour, with the phrase "I must say." It seems, as if, to state any circumstance favourable to me, was the result of a compulsion, to which his mind unwillingly submitted. In this instance he speaks like a *penitent*, whose conscience obliges him to make the acknowledgment of a fact, which his inclination would prompt him to conceal. I had a right to expect that when the witnesses could testify any thing in my favour, they would speak in the same unreserved language which they used, when they intended to expose my misconduct. Upon most occasions, observations on circumstances apparently so light, might not be proper or necessary. But Gentlemen, I beg you to recollect, that the witnesses have undertaken to interpret my *looks*—and have ventured to infer from my *countenance*, from my *appearance* and *manner* what was passing in my mind, and by what *motives* I was actuated. They have not hesitated to express opinions, derived from no other indications—when they knew that these opinions might affect my honour, and my life. It cannot be improper then, that I should ask you to remark even the slightest expression of a witness, which I may think will betray the disposition with which he testifies. It is with reluctance, that I attempt to impeach the testimony of any witness who has been called against me. I have been taught to venerate a soldier from my infancy. I know that the profession of arms generally adds lustre to the most noble virtues. But I know that men do not change their natures by becoming soldiers, nor by attaining the most elevated rank; and when they can reconcile it to themselves to accuse me of cowardice, from appearances so fallacious; surely I may remark that expressions they have used, indicate bias, partiality or prejudice.

Without detaining the court with a particular recapitulation of more of the evidence on this point, I shall content myself with referring the court to the very important and decisive testimony of Captain Dyson—to the testimony of Captain Bacon, and finally to the testimony of Mr. Watson—who says that after my arrival at Detroit, no man could have been more industrious and indefatigable than I was. I proceed to a new subject, and shall now make my defence against the accusation, which is in substance; that I did not avail myself of the opportunity, which the defeat of the Enemy, by Colonels Cass and Miller, and their possession of the bridge over the river aux Canards, on the eighteenth of July, afforded of making an attempt on Malden;—and that I did not maintain possession of the bridge.

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This forms the sixth specification under the charge of unofficer-like conduct.

The exposition which I have already presented, of my views and designs when I crossed to Canada, would, I humbly conceive, afford a sufficient answer to these accusations; I did not think it expedient to attack Malden, under any circumstances which existed, previous to our leaving Canada. Why I thought it expedient I have already explained. The advantages which I thought were to be gained by delay—a regard which my orders compelled me to pay to the security of my own posts—the necessity of keeping open my communication, the certain consequences of defeat—and the probable consequences of victory—have all been considered in making my defence against the charge of undue delay in Canada. If I was justifiable or even excusable, in deferring the attack on Malden, I must be so in having omitted to avail myself of the possession of the bridge—and in not having attempted to maintain it. It would have been absurd to have attempted to maintain a post so far in advance, unless it was with a view to an immediate movement on Malden. But I beg the court to advert to the date of this transaction. It was not on the eighteenth of July as mentioned in the specification, but on the seventeenth as appears by my letter to Colonel Cass. This was the fifth day after we moved into Canada—at that time the deliberations of my officers in Canada, had uniformly resulted in the expression of an opinion that the attempt on the enemy's fortress should be deferred till the artillery was prepared. And it was immediately after the council at Sandwich in which Colonel Cass himself, as appears by the testimony of Judge Witherell, had advised that the attack on Malden should not be made without cannon.

My views in sending this detachment or rather in permitting Col. Cass to march it, appears from his testimony—I meant it as a reconnoitering party, and by no means intended that the commanding officer should pursue measures which might expose the detachment to be sacrificed, or oblige me to abandon the system I had adopted, by leading my whole army to its support. Col. Cass testifies, that a day or two after Col. M'Arthur was detached to the river French, he (Col. Cass) requested me to permit him to reconnoitre the ground between Sandwich and Malden—that I did permit it, and a detachment of 280 men were ordered for that service.

General Taylor states, that he was present when news arrived that Col. Cass had taken the Aux Canards bridge—"That I expressed my astonishment that Col. Cass should have commenced hostilities—as I was not ready with the artillery—that I appeared to be irritated, because Col. Cass had taken upon himself to act, without my authority—the detachment having only been sent out for observation."

It cannot be doubted but that General Cass knew my views, and the objects of his detachment—How far he was justifiable in pursuing measures so contrary to them, not only in making an attack, which might have forced me to a general and decisive action for his support, but after my verbal orders to retire, persisting to maintain his situation, until he had tried the effect of a written remonstrance to me, it is unnecessary now to consider.

I do now believe that the whole of this proceeding was a manoeuvre, to afford grounds for new clamors against me and weaken my authority. My officers, long before they had matured their conspiracy, to wrest the command from me, by actual violence to my person, had formed a plan, of which I firmly believe this was a part, to place me in such a situation as would oblige me to be obedient to their schemes. If any thing successful was done, they would claim all the merit.—In case of disaster, the blame could easily be thrown on the commanding General. If I had led the army to the Canards, which probably I must have done, to have maintained the bridge, instead of its being alleged against me as a crime, that I did not do so, do you not believe Gentlemen in case we had been defeated, I should have been charged with misconduct, in having acted in opposition to the advice of all the councils, not to move on Malden, without artillery? And when it is considered that Col. M'Arthur was absent with a large detachment—that I had received no intelligence from him—that I was under great uneasiness on his account—I do think that if I had left him in my rear, and with only part of my army, had taken grounds, which might have been the field of a general action with the enemy's whole force, which was then, either in respect to its regulars, militia or Savages, unascertained, and at that time but inconsiderably weakened by desertion, I should have been highly culpable. Col. Miller's account of this transaction is as follows—"In answer to a message sent to Gen. Hull, he sent us an order to return. The purport of his message was, that he could not soon be ready for the attack on Malden—and could not think of dividing the army. We then wrote to him and pressed in strong terms the necessity of maintaining the bridge. In answer to which, he sent a written discretionary order to us, expressing his anxiety about Gen. M'Arthur, &c."—This order has been proved. It is in the following words.

"Sandwich 17th July, 1812.

Sir,

I have received your letter of this morning. To my astonishment I have not received the least information from M'Arthur. It is possible something unpleasant has taken place. It will probably be a week before the cannon will be mounted. I am sensible of the advantage of holding the bridge. I would, not however, hazard too much for the purpose. The enemy may pass the ford above and come in the rear. I will however leave to your discretion and Col. Miller's, under all the circumstances of the case, to do that which you judge most expedient. Twelve miles are a great distance—and the enemy can either land in boats above the mouth of the river, or pass at the ford to attack you. You know the ground better than I do, and as I before observed—I will leave the measure and the force to your discretion and Col. Miller's and the best mode of security to the party."

I am very respectfully, your most

Obed. Servt.

W. Hull B. General

Col. Cass.

Commander

Col. Miller further testifies that "upon the receipt of this letter, the officers were called together, and it was decided, that unless the bridge, being 12 or 14 miles from our camp, and only 4 or 5 from the enemy, could be supported by *our whole force*, we had better return, and that as we had not the disposition of the whole force, which was thought necessary, we ought not to take the responsibility."

This testimony I think develops too plainly to be misunderstood the design of these proceedings. I was to be compelled to abandon my own plans and to adopt those of my officers. I was to be compelled to lead my whole force in a manner, under the walls of Malden, without being provided with artillery—and I was urged to do this by the commandant of the detachment, who, but a day or two previously, had given a decisive opinion in council, that the attack on Malden should not be made until the ordnance was prepared. But when it was found that my order left the officers of the detachment a discretion, and that if any attempt to maintain the bridge should be attended with any disaster, the officers must share the responsibility—then there was no doubt as to the measures to be pursued. It would have disappointed the whole design, if I should escape any part of the odium.

But however this affair of the bridge has been magnified, it is a fact, that the possession of that pass by the enemy, never was contemplated as an obstacle to a movement on Malden. They in truth, never attempted to maintain possession of it. Col. Cass's rencontre was only with a reconnoitering party. According to the testimony of Col. Miller, they saw no more than 50 of the enemy—He says they had about 25 men on the bridge, and about 25 on our side, and that some men were discovered in the woods. After this, there were, as appears from the testimony of Col. Cass, repeated detachments sent from Sandwich to the bridge. They always found it unoccupied by the enemy. It could then have been no object to have moved the army to that post, until the attack on Malden was determined upon.

It is curious to observe what trivial and irrelevant circumstances ingeniously can bring together to create false appearances. Some of the gentlemen who were prisoners with the enemy at the time of this transaction, have been produced to testify that when accounts reached Amherstberg that our detachment had appeared in the Aux Canards, it created great consternation, and it was intended that it should be believed that the enemy were ready to abandon their post at our approach. But it turns out upon further examination from witnesses of the same description, that the disposition to fly was only manifested by the town's people, who thought it unnecessary to expose their persons and effects in a place which was likely to be invested. This, so far from evidence of an intention to yield the place without contest, is not an unfrequent measure when the most obstinate resistance is intended. In my letter to the Secretary at war of the 19th July, I mention the affair at the Aux Canards Bridge, and say great credit is due to Col. Cass and his detachment for firmness—Col. Cass and the other volunteers, when supported by the proportion of regulars which were with them in this first encounter with any enemy, I did think credit

was due to both men and officers--But when I wrote that letter I had not the same views of the designs formed against me, which subsequent circumstances have expressed. I did not then see that a plan, which has been so successful, was settled, to make my destruction a merit which was to give another my place, and some of his accomplices, rank and fortune.

I am charged with unofficer-like conduct in suffering my communication with the river Raisin to be cut off. This imputation is among the last that I expected to find in the catalogue of my accusations. If it had been intended to shew that nothing that I did or intended to do, could escape censure, this specification would afford strong evidence of such a disposition. In the means that I took to open this communication, are also made the subjects of accusation. The detachment under Col. Van Horne, the retreat from Canada, the detachment under Col. Miller and under Colonels M'Arthur and Cass, although they were all measures which were dictated by the strong necessity which I saw and felt to keep open the communication in question--are all set down as instances of misconduct. But I would ask those, at whose instigation these charges have been made--what measures I should have pursued to have effected this object? It must be remembered that it was utterly in vain to have opened the communication to the river Raisin only--no supplies could come from thence, that were not drawn from the western states. I must therefore have protected the road all the way from Ohio. Was this to have been done by stretching back so great a distance with a sufficient force? If so, my whole army would have been insufficient for the purpose. The two hundred men I sent under Major Van Horne, my two senior officers thought insufficient. In their opinion I ought to have detached for this duty one of their regiments. Col. Miller, after he had defeated the enemy, had more than 500 men left, and was within 14 miles of his destination. He thought it necessary to send back to me for a reinforcement of one hundred and fifty or two hundred, before he could proceed--although he knew that at the river Raisin he was to be joined, and would be strengthened in his march back by the detachment under Capt. Brush, which had escorted the provisions to the river Raisin. If so great a number of men was requisite merely to force a passage to the river Raisin, and back, how great a portion of my army would have been necessary to keep open the road to Ohio, or even that portion of it which was between Detroit and the Raisin?

I think it must appear to the court that I could not have kept open this extensive line of communication, without distributing my whole army along the road--and yet, according to the inferences to be drawn from the charges and specifications, I was criminal in not carrying on an offensive war in Canada, and in not performing at the same time another service which would have required all my troops.

That this communication ought to have been kept open, is most certain--I did expect it would have been. I did suppose that a force would have been sent after me, adequate not only to this purpose, but to augment my army. The grounds I had for these expectations, will appear from documents which are before the court, to some of which I have already adverted.

It is alleged that I was guilty of misconduct in sending the detachment under Major Van Horne—because it was inadequate to the purpose for which it was intended. The proof of the inadequacy I presume is, that it was defeated. It appears however, that it was not owing to the want of numbers, that this defeat happened—according to Major Van Horne's own account, the party that attacked him, he judged from the fire, was from 150 to 200. This was conjecture, for more than 40 savages were not seen. But these volunteers, the same patriotic men who are said to have wept so bitterly because they were not allowed to fight at Detroit, fled in the first moments of an attack with the utmost disorder and precipitation—had this not been the case, the detachment was sufficient. If it had fought the enemy, there can be no doubt but it would have made its way good to the river Raisin, where it would have been joined by a large detachment under Capt. Brush. If the detachment had been ever so large, it would have been insufficient, if the men behaved no better than those Major Van Horne commanded did upon this occasion. But, Sir, the true foundation for this charge, is that I did not think proper to be obedient to the advice of my two senior officers. It was placed in this black catalogue, solely for the purpose of giving *them* an opportunity of proclaiming to the world their own superior sagacity and judgment. It was to give *them* an opportunity to prove, by their own testimony, that whatever I did was wrong, and that whatever they advised, would have been right.

But possibly I ought to have suffered the advice of these officers, upon this occasion, to have had more weight. I should have reflected that they had the best opportunity of knowing the character of their own troops, and might have anticipated their shameful conduct. But then I think I have reason to complain that Cols. Cass and M'Arthur were not at this time as candid as they were when it was proposed to attempt Malden by assault, and that they did not tell me, as they did then, that they could not be responsible for their men. If they had told me this, I might have thought it right to increase the force of the detachment, and to have added to it some regulars, whose presence might, as it did at the Aux Canards, have encouraged the volunteers to face the enemy or made them more afraid to run away than to fight.

The court then adjourned to meet to-morrow morning at 10 o'clock.

Friday morning, March 18th, 1814.

The court met pursuant to adjournment:

Present all the members;

General Hull appeared in court, and proceeded to read his defence as follows.

The next accusation is one that can only have been set down to swell the list of offences imputed to me. For it is without any manner of foundation.

It charges me with unofficer-like conduct in having detached Col. Miller on the 8th of August, and not having supplied him with provisions when he was near Brownstown.

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While Sir, I feel myself bound to acknowledge the liberality with which I have been treated by the Judge Advocate in the course of this trial, and the delicacy with which he has in general refrained from repeating the odious epithets which are so profusely and wantonly used in the specifications. I cannot but regret, that he has in respect to this charge departed from his general observance; and that he should upon such evidence, as was before him have thought himself justifiable in imputing to me misconduct on this occasion an useless waste of American blood.

Sir, the American blood that was spilled in the contest at Brownstown was gloriously shed. It purchased a victory that did honour to our arms. True it was ineffectually shed—but to lay the failure of the enterprise to me and to reproach me with this waste of blood, is as unjust as it is inhuman.

I do not understand that I am supposed to have done wrong in sending the detachment, or in not making it of greater force—By the testimony of Col. Miller, it appears that he marched with 600 men instead of 500, as is mentioned in the specification—But the misconduct imputed to me is as I understand solely that I omitted to supply Col. Miller with provisions after the battle at Brownstown.

With respect to the want of provisions it appears that the detachment was amply provided when it left Detroit. The march they were to perform was about 30 miles—and Col. Miller states that they were furnished with a supply for two days, when they set out—but (he says) the provisions were thrown away with the men's knapsacks when they were attacked—and though he represents the enemy to have been entirely beaten, and so far driven from him, from off his route, that Captain Maxwell went from him to Brownstown and back, and reported that the enemy were all gone—and though Col. Miller states that he returned to the battle ground with his whole force and was in fact undisturbed on that ground nearly two days—yet he says in his cross-examination that the provisions were not recovered, because he could not suffer his men to separate and take them up.

I cannot conceive what necessity there could have been for his men's separating. It appears to me that he would only have had to march his whole detachment over the ground where the attack was made and the provisions might have been recovered with as much security to the detachment, as when they were remaining inactive in the position to which they had retrograded. Col. Miller in his account of this transaction states, that he considered that his victory opened the communication to the river Raisin sufficiently for him to have proceeded—that on the evening of the day on which the battle was fought (that is on the 9th) he sent Major Snelling to make a report to me to inform me of the loss of provisions—and to request that I would send boats or waggons with provisions, and to take back the wounded. He was also to request a reinforcement for Col. Miller—which Col. Miller on his cross examination says he suggested should be from 150 to 200 men.

Col. Miller also states that Col. M'Arthur came down the next morning (that is on the 10th) with 8 or 9 boats, and brought with him no more than

two barrels of flour, one barrel of pork, and half a barrel of whiskey.

That the place where the battle was fought, was about 14 miles from Detroit, and 16 to the river Raisin, between Maguago and Brownstown: it being late in the day before the wounded men could be got on board the boats, he knew that he could not get through before the next night (that is the 11th) moving as cautiously as they ought to do. That the men still complaining of hunger, he concluded that he could send to Detroit that evening (that is the 10th) and have provisions the next morning. That he accordingly sent an express to me on the evening of the 10th, requesting that I would send him two days provisions. That no messenger from me came to him until sundown the next day (that is the 11th). That the messenger informed him that he had been detained by his losing his way. That this messenger brought him an order from me to return to Detroit, and informed him that he would find provisions at the river Ecord. That on the same evening he took up his march for Detroit, and arrived there the next day, the 12th. That his force was 230 regulars and 320 militia, some of the Michigan militia, and some of the Detroit horse. That the militia behaved well. That his loss was 17 killed and 64 wounded.

Sir, it has always appeared to me most unaccountable, that Colonel Miller, after he had disposed of his wounded men, on the 10th, and when, according to his own testimony, he considered that his victory had opened the communication to the river Raisin, did not proceed; he had but 16 miles to march; he remained in the position he had taken, from the evening of the 10th, when he had embarked his wounded men, until the evening of the 11th, that is 24 hours, when he might have accomplished his march, as I should think, in 4 or 5 hours. At the end of it he was sure, not only to meet the provisions he was sent to escort, but a strong reinforcement from the detachment under Captain Brush. He says, however, that on the evening of the 10th, he determined to halt where he was, and to wait the return of an express from me, because he should be obliged to move with so much caution that he knew he could not get through until the next night. A very extraordinary caution, indeed, must have been necessary, that could have retarded, for so long a time, the march of a body of troops for 16 miles, through a space, which it had been ascertained, by the report of Captain Maxwell, was as far as Brownstown, at least, free from an enemy. But if the want of provisions was a reason for not proceeding to the river Raisin, why did not Colonel Miller push on to Brownstown? There was an Indian settlement which, without doubt, was, at least, capable of supplying his immediate wants; and from which he could not have been distant but a very few miles. If there, he could have got but one meal for his troops, it does appear to me that there would not have been any great enterprize in undertaking

the rest of the march, which might have been 12 or 14 miles, without any further provisions.

It did appear to me not less extraordinary, that when Colonel Miller advised me that when he had gained so decisive a victory, that he considered his road to the river Raisin as opened; and that he had ascertained that there was no enemy between him and Brownstown—that he should, at the same time, have made a demand on me for a reinforcement of 150 or 200 men, when, after his battle, he had 500 effective men, 280 of whom were of his own regiment, and were almost the whole force of that description which I had under my command.

Let me here remark, if so great a force, that is to say, between seven and eight hundred men, were necessary to force that way to the river Raisin, what proportion of my troops must have been necessary, not only to keep open the communications for that distance, but to guard the line all the way to the state of Ohio.

But it is not my business to examine the conduct of Colonel Miller, further than to shew that when I despatched him, with so large a detachment, with rations for two days, I had made every provision which I had any reason to think his exigencies would require. When, however, I received his demand for provisions, I took every measure that the duty of my station required to supply him. Colonel M'Arthur was charged with this service, and I beg to present to the court his account of the manner in which he performed it. "On the day we crossed from Canada," says Colonel M'Arthur, "that is the 8th of August, Colonel Miller was sent with a detachment for the purpose as was stated, of opening a communication with the river Raisin. The night succeeding Colonel Miller's battle at Maguago, (perhaps the 9th) the general sent for me; the night was wet, he informed me of the battle, and directed me to take 100 of my regiment to take the boats along the river, and to descend to Colonel Miller's encampment, for the purpose of bringing up the wounded men. He directed me to get one day's provision for Colonel Miller's detachment. I called at the commissary's and was detained there 3 or 4 hours in getting it—I got what I could."

It has been my misfortune, sir, that I have not been able to obtain the testimony of Mr. Beard, the commissary. He has been regularly summoned by the judge advocate, at my request, and I have several times written to him, but he has not made his appearance. The judge advocate, however, with his wonted candour, has admitted a document which, in some measure, supplies his testimony. It is an order which I issued to the contractor, on the 9th of August, for delivering rations to Colonel M'Arthur for Colonel Miller's detachment. The receipt of which order is acknowledged by the contractor, as a copy thereof, which is in the following words:

"The contractor will issue six hundred rations of bread or suppers

"hundred rations of pork, and twelve hundred rations of whiskey, to be sent to the detachment under the command of Colonel Miller.

"By order of Brigadier General Hull,
"H. H. HICKMAN, Captain Infantry."

August 9, 1812. (Correct copy.)

D. Beards.

Now, sir, it appears that General M'Arthur knew that one purpose of sending him to Colonel Miller's detachment was to carry provisions. He says I directed him to take one day's provision for Colonel Miller's man. That he was detained by the contractor 3 or 4 hours, and took what he could get; and it appears that he arrived at Colonel Miller's encampment with only two barrels of flour, one barrel of pork, and half a barrel of whiskey. When I had given the order to Colonel M'Arthur to take the provisions; when I had issued the order to the proper officer to issue them to him, had I not done every thing that was incumbent on me as commanding officer? was it my duty to go to the commissary's store, and to superintend the issues? If Colonel M'Arthur found the commissary disobedient to my order and unduly detaining him, why did he not report to me? How will Colonel M'Arthur excuse his having departed on this service without having with him the quantity of provisions I had ordered? Is it sufficient for him to say he took what he could get? If there was any deficiency he ought to have informed me of it. He could have had communication with me in five minutes. If want of provisions was the reason why the American blood, that was spilled at the battle of Brownstown, was shed in vain, I again ask was it not most unjust to charge that waste to me? On the 10th of August I issued another order for provisions for Colonel Miller's detachment—this has also been read and is in the following words—

"Detroit, August 10, 1812.

"The contractor will issue for Colonel Miller's detachment, two thousand complete rations.

"A. F. HULL, aid de camp."

These provisions were sent by the contractor to Colonel Miller's detachment. Colonel Miller met them on his return and brought them back with him.

An accusation of the same nature with that which I last considered is, that I also omitted to supply with provisions the detachment which left Detroit on the 14th of August, under Colonel M'Arthur and Cass. General M'Arthur's testimony on this subject is as follows. "That on the 14th of August, about noon as he thought, I sent for him and informed him that I had just received intelligence from Captain Brush that he had arrived at the River Raisin with provisions, and said I wished to send out a detachment to meet him—that he replied he was ready to obey my order. Colonel Cass said the same thing. That they (the witness and Colonel Cass) then returned to camp, and shortly after received an order to detach 150 men from

"each of their regiments. That in the evening I came along and asked if they were ready to march. The witnesses answered that they were not—but as usual had not a bite of any thing to eat. That I said the detachment must not be delayed—and that I would send provision after them." The witness then gives an account of the proceedings of the detachment 'till its return to Detroit—and states that they never received any provisions from the fort.

I cannot but think that this account of General M'Arthur's conduct, though given by himself, will excite the surprise of the court.

He was ordered to march a detachment at about 12 o'clock. He does not move 'till evening, and then I find that he has not obeyed the order. He gives me to understand that he has been waiting for provisions. If there was no order for provisions, why did he not apply to me on the subject? But there was one, and I think General M'Arthur's testimony shows it. When he sees me he does not complain of the want of an order, but that he cannot get the provisions. If there was an order, and the proper officer did not obey it, why was not the disobedience reported to me? Instead of pursuing so obvious a course, Colonel M'Arthur chose rather to remain in his camp 5 or 6 hours. And if I had not accidentally met with him, how much longer he would have considered his delay warranted by the same cause, it is impossible to say. It does appear to me that this conduct of General M'Arthur is very unaccountable. Perhaps he had no inclination for the service he had been ordered to perform, or, if any be, that he thought that by the delay, or by going without provisions he would bring blame on me. The behaviour of General M'Arthur upon these two occasions, that is to say, in respect to the provisions which he was to take for Colonel Miller; and in respect to provisions for his own detachment, it appears to me manifests very strongly that there was some hidden motive for his conduct—and in this last instance there is a mystery which I am sure is not explained by any thing he has said. It never can be believed that he waited so many hours solely for the purpose of obtaining an order for provisions; or if he had an order, that his delay was merely for the purpose of having it executed. If his only object had been to procure provisions, the means of doing so by an application to me were so obvious and direct that he could not have hesitated to pursue it. But if the court will recollect that at this time the conspiracy had been formed to take the command from me; and that General Cass in his letter to the government has stated that the execution of it was only prevented by his and General M'Arthur's having been sent on this detachment, it may account for the conduct of these officers. The delay was possibly to mature their plot and to put it in practice.

If General M'Arthur was on his trial for misconduct in relation to these transactions I am persuaded that his testimony ought rather to convict him than me.

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cessary provisions.—My information from Captain Brush was that he would be on his march with the provisions under his escort, with the expectation of meeting a detachment from Detroit for his support.

It appeared to me that not a moment ought to be lost in sending a force to meet him, and when I found that General M'Arthur had delayed to execute my orders for so many hours, I determined that the departure of the detachment should be no longer postponed—I therefore ordered it to march, and determined to send provisions after it on pack horses. I immediately gave the necessary orders to the acting commissary general for that purpose. This is proved by the testimony of General Taylor. He says that on the 14th of August I did give him an order to furnish pack horses to carry provisions for the detachment going to the River Raisin, under Colonels M'Arthur and Cass; that he did not know that the provisions were sent, but the pack-horses were furnished for the purpose, and he presumes the provisions were sent. That I gave all the necessary orders for sending them is certain: and if my orders were not complied with, I do not think that I am the person that ought to be called to answer for it. It never can be expected that a commanding officer should not only give orders, but that he should attend to the execution of the details. There was, as Mr. Watson has testified, a want of system in every department of the army, which it was impossible for me to remedy: because the heads of them were totally inexperienced. However the fact is, that the provisions in this case were sent. But as the detachment, pursuant to my orders, took an unusual and obscure road, the guides, as I have heard, misled the provisions, and they were not heard of before the surrender.

In the 7th specification, under the charge of un-officer-like conduct, is assembled a variety of accusations. The first is a little incongruous in its language. It is stated that the enemy having erected batteries opposite to Detroit—I was from the 11th day of August to and including the 16th day of the same month, guilty of a neglect of duty in not preventing the enemy from erecting the said batteries. It would be an answer to this charge to say that I could not have prevented the erection of batteries which it is stated were already in existence. But though I think there are many incongruities of the same nature in the specifications; I have not attempted to avail myself of them, and shall no further notice this.

The Court will observe that this accusation is connected with and indeed entirely rests upon a previous allegation, that I well knew that these batteries were erected by the enemy with an intention to annoy Detroit, and with a design to facilitate the invasion of the Michigan territory. The fact is that I had no such knowledge; I had a firm persuasion that the enemy would not invade our territory. I did believe that the war on their part would be entirely a defensive war, and that these batteries were only intended for the defence of their own shores.—I admit, sir, that my opinions in this respect subsequent events

have proved, were entirely erroneous. But I cannot believe that a mistake in opinion or judgment is to be punished as a crime. This could be less a defence to an accusation of this nature, was not the charge so connected as I have mentioned with the allegation that I knew how the enemy intended to employ their batteries: the question must be first asked had I this knowledge? There is not a particle of evidence that I had—and if this question must be answered in the negative, the accusation is not supported. But I do not rest this part of my defence on this ground.

That the enemy did erect batteries opposite to Detroit, and that I did not attempt to annoy them till they commenced their fire on the 15th, are facts not to be disputed. I did not annoy them for the reason I have above mentioned—that I considered them as mere defensive works. But a desire to preserve my own ammunition was the principal reason for this conduct. I might have hindered the enemy from progressing in the day time; but in the night any annoyance I could have given them would have been ineffectual. Captain Daulton has given a statement of the ammunition.—Captain Dyson of the artillery supposes that it would not have lasted more than 3 or 4 days if we had commenced and continued firing. The fixed ammunition he says could not have lasted more than two days.

Captain Bacon testifies that on the morning of the 16th, he examined by my orders the magazine and could find but one box of 24lb. cartridges, and that he reported to me that they were nearly expended. The testimony of all the witnesses who had spoken shows that my mind was impressed with the necessity of sparing the ammunition, and that this as well as the expectation that the enemy did not intend, as long as I did not provoke offensive operations, were the reasons why I did not cannonade the enemy while they were fortifying on the opposite shore. Major Trimble testifies that when he proposed to me to fire on a party of the enemy which made its appearance on the 14th of August at Sandwich, I answered that it would not do to expend the ammunition unnecessarily. Captain Bacon says that on the morning of the 16th he was directed by me to go to Captain Dyson at the battery where he commanded, and inform him that the 24lb. ammunition was nearly exhausted, and that he must not fire, but when there was a prospect of his doing execution. Another of the accusations which are assembled in this specification is that I omitted to fortify Spring-Well. I do not know why it might not as well have been alleged that I omitted to fortify any other position in the River Detroit.

It is not in proof that that spot was particularly adapted to a fortification. If it had been fortified the enemy would not probably have selected it as their place of debarkation. Almost any other spot within the same distance above or below the fort, was as well calculated to afford them a landing. This specification also accuses me of having neglected to annoy the enemy after he had landed at Spring-Well. Gentlemen

the answer to this specification is embraced in the defence I have made in to the final surrender.

I had made preparations for attacking; the troops were drawn out and formed in line of battle; but before the enemy came up, I determined to surrender. My reasons for this measure I have already explained, I shall not repeat them. I will only beg you to observe that the reasons I have offered have not been suggested merely for the present occasion.—Major Munson testifies that he saw me the day after the surrender, that I told him I expected to be censured for what I had done—but said, "I have done what under all circumstances was most proper, and I have saved Detroit and the territory from the horrors of an Indian massacre."

But I am accused of having made the surrender in an un-officer-like manner, in having made it before the articles of capitulation were signed, in not stipulating for the honours of war, or for the friendly inhabitants of Canada who had taken protection from us. Before I make observations on this subject I beg leave to present to the court collectedly the testimony which relates to it.

Major Snelling testifies in substance that immediately after the second shot which did execution in the fort, was fired, Captain Hull was sent across the river with a flag, and that he (Major Snelling) was sent to order Colonel Findley into the fort. The witness having performed this duty, went to one of the batteries. While there a British officer with a flag came to enquire what was the meaning of sending the flag across the river, when General Brock was on the American side. Lieutenant Hunt then went with the information to me, and returned with a sealed letter, and orders that he the witness should carry it to General Brock. That the witness met General Brock at the head of his troops about three quarters of a mile from the fort, where they were not in sight from the fort.

The witness having delivered the letter of which he was the bearer, General Brock asked the witness if he was authorized to agree on terms? The witness said not.—General Brock then asked two of his officers to go with the witness to the fort. As they approached the fort they were met by some persons who conducted them to a tent which had been erected by my orders, where they were met by Colonels Miller and Brush, commissioners appointed by me, and the capitulation was there signed by the commissioners. The contents of the note the witness says were no more than these words—"Sir, I agree to surrender the town and fort of Detroit!"—He would not undertake to say that the words he gave were the whole substance of the note, but he believed they were.

Major Snelling further testifies that before the capitulation was signed he saw me near the marquee in conversation with Colonel Findley and with the British officers, Colonel McDonald and Captain Clegg, who were within the marquee. The witness said he did not recollect that

I took any part in drawing up the capitulation. That I ordered a number of our officers who were collected about the magazine, and among the rest the witness.

In a subsequent part of his examination he says that before the capitulation was signed, Colonel Findley's regiment was marched into the fort which was very much crowded.

Captain M'Cormick testifies that after Colonel Findley's regiment had been ordered into the fort, he met Colonel Findley as he was going into the fort. That they there saw me. That I requested Colonel Findley to join Colonel Miller to treat with the enemy, and said that we could get better terms than we should if we waited till they attempted to storm the fort. Captain M'Cormick further testifies that as he went out of the fort, he saw the British officers Colonel McDonald and Captain Clegg coming towards the fort. Some one said it was improper they should be permitted to come in, and they went to the tent. Shortly after the British officers, with Colonel Miller and Colonel Brush came into the fort and were there together in Dyson's quarters, where as he supposes the capitulation was signed. The witness further testifies that before this and at about the time the British officers and Colonels Miller and Brush went into Dyson's quarters—nearly all the troops were marched into the fort. In his cross-examination Captain M'Cormick says it might have been ten minutes, half an hour, or more, after the firing ceased, before the troops were ordered to march into the fort. That the witness did not come into the fort till half an hour after the firing had ceased. Major Van Horne testifies that on the morning of the 16th Captain Hull came to the tent of Colonel Findley in which the witness also quartered, and informed Colonel Findley that it was my orders that his regiment should move to and form on the south west of the fort.

The witness then describes the situation of Colonel Findley's regiment in the line, and the manner in which the whole line was formed. He then further testifies that after the line was formed, and about an hour or half an hour before the flag was hoisted, I came to the line. That this was during the cannonade. British officers were then seen passing to and from the Indians. That I appeared satisfied with the positions of the troops. That the witness said to me we shall be able to give a good account of them. About the time the firing ceased witness turned round and saw a flag hoisted in the fort—and at about the same time Captain Snelling came with orders from me to Colonel Findley to march his regiment into the fort; and said that it was my directions that as the flag was out it should not be violated.

The witness further testifies that I remained at the line formed by the troops about three, or it might have been five minutes. That Colonel Findley expressed dissatisfaction with the order but said that it must be obeyed, and directed the witness to march his battalion to-

wards the fort which he did, but halted near the fort some minutes. That finally he marched his men into the fort and there stacked their arms. That Colonel Findley did not come until some time afterwards.

The witness further testifies that when he got into the fort he saw me, but was not certain that I was there when he entered. That some time after the witness had been in the fort I addressed him and several other officers at the same time, and invited them into the room of one of the officers. That I told them I had surrendered the fort and was about to make the terms. That I asked if they thought of any thing as a condition, I should be glad to know what it was. That the witness did not go into the room. That when he first saw me I was on the steps going into one of the rooms. That some time after this Colonel Donald and Captain Clegg rode up, came into the fort, and went into the room where I was. That the witness does not know whether I did or did not go into the marquee before the British officers came in. That our whole line, as he believes, had marched into the fort and stacked their arms. That this had taken place before the British officers came in.

Major Jessup testifies that he had observed our troops retreating, and saw the flag flying. He met Colonel Findley who requested him to ride towards the fort and learn the reason of the retreat. That he found me in the fort and thought me very much frightened. That after a conversation with me, of which he has repeated his own gallant expressions, but unfortunately cannot recollect what I said, he went out and met Colonel Findley, and said to him all was lost. That when he saw me at the time the terms of capitulation had been agreed upon, that he met me in a piazza before Captain Dyson's quarters. That I was then perfectly composed.

He then relates a conversation with me which concluded with a request that he would continue to act in his station 'till the troops were marched out of the fort. That he consented to this and received from me or one of my aids a copy of the capitulation, which I directed him to read to the troops, and that he did this when the troops were marched out at about 12 o'clock.

The witness further states that he thinks a detachment of the enemy came into the fort, before the articles of capitulation were signed. But that he is not certain whether the enemy's troops marched in before the American troops marched out—but knows that the American troops did not march out 'till after the capitulation was signed. Captain Burton testifies that he knew when the capitulation was agreed upon. That it was done in Captain Dyson's quarters, where he saw me, General Brock, and two or three British officers. That they were writing and preparing the articles of capitulation. That he heard remarks which induced him to believe that the articles of capitulation were not agreed upon. That he could not say whether the American troops were then in the fort—but there were at that time 150 British troop

standing with advanced arms in the fort. The enemy were at or about this time placing guards in and about the fort. That the reason why he supposes that the articles were not at this time finally agreed upon was that he saw General Brock with a paper from which he struck out two or three lines, which, as he understood, related to the regular troops returning home, which General Brock said he would not agree to.

That at about this time he saw one of the British officers writing. Before this he had seen the British officers and American officers at the marquee, and that I also had been there.

That it was about three quarters of an hour after he saw the British officers going with me to the marquee before he saw the British officers in Dyson's quarters. On his cross-examination by the court Major Jessup says—when the terms of the capitulation were discussing the American troops were crowded in the fort in the utmost disorder—and the enemy were permitted to approach so near the fort as to be able to take possession of the batteries.

Captain Fuller testifies that soon after the white flag was hoisted he went to the fort and there met Colonel M'Donald and Major Clegg. That I was standing near the gate. One of the British officers said to me that they were sent by General Brock, in consequence of seeing a white flag hoisted, to receive any communications.

That I replied I should surrender, and desired them to go to the marquee, where I would go or send to them. That Major Clegg requested the witness to go with him to the marquee for fear our militia might fire on him. That he went with him to the marquee; they were furnished with pen, ink and paper by Major Scelling; that soon after they got to the marquee, Colonels Miller and Bush came, that he staid near the marquee about ten minutes and then went to the fort, leaving me at the marquee. That when he returned to the fort, he found our troops were in, and had stacked their arms; that some time after he saw the British officers, M'Donald and Clegg come to Dyson's quarters, one of them having a paper which he said had been signed by me, and that he was going to take it to General Brock for his approbation, and wished the witness to go with him for the same purpose that he accompanied him to the marquee.

That the witness went and found the British column led by Colonel Proctor about half a mile below the fort. That he left Colonel M'Donald and returned to the fort.

Colonel Miller testifies that on the morning of the 16th I was in the fort, that it was reported to me, that the enemy were advancing, and that part of the Michigan militia had joined the enemy. That upon this I asked him if I had not better send out a flag, he said no he did not know, I had better consult the officers who were without the fort, that they had the best opportunity of judging. That I said there was no time for consultation, that I would send a flag and that I did so. That some time after this, Colonel Findley's regiment marched into the ran-

1800: That I went to a tent and sent for him, that when he approached the tent I was standing in the tent, with my back towards him, that he said to me in the presence of the British officers in the tent "I will surrender." That I then requested him with Colonel Brush to assist in drawing up some articles of capitulation.—That he remained at the tent, lying on the ground in a violent fit of the fever and ague while Colonel Brush and Mr Donald were penning the articles.

The original articles of capitulation were then shown to the witness and he said he believed them to be those which he had signed; but said he was strongly impressed with a belief that when they were read to him, and he signed them, that they contained a provision that the garrison should march out with the honours of war.

In his cross-examination by the court, Colonel Miller states that according to his best recollection, he went to the tent between 10 and 11 o'clock in the morning of the 16th. That he remained about three quarters of an hour, that after he had signed the capitulation, he went to the fort and went to bed; there were then no British troops in the fort; but he saw as I went in a company of about a hundred British soldiers standing near the gate of the fort. In a subsequent part of his cross-examination he states that I told him I was willing that he should make a surrender the basis of a treaty, and that he must get the best terms he could. He further says that when I sent out the flag, I mentioned to him that I did it to gain time. That I expected to procure a cessation of hostilities, and that I might in the mean time hear from Colonel M^r Arthur and Cass. Colonel Miller was called again a few days after his first examination—and he then stated, that after the first flag was sent out, and before an answer was returned, Colonel Brush came to me, and having been informed that Krugg's men, who had the advanced post below the fort, had deserted to the enemy, Colonel Brush exclaimed that "By God," or that "he believed by God his men would desert to a man."

I believe, may it please the court, I have here collected all the testimony that is material, whether it be for or against me, which in any wise relates to the matter now under consideration. I do not pretend that I have given the very words of the witnesses in all instances—But I have done so as nearly as my own recollection and the notes of my council would permit. If there be any errors or omissions, they certainly cannot be intentional, because I know that the members of the court will have recourse to their own minutes and to the record of the judge advocate: and if it should appear that I have in any respect wilfully perverted the testimony, it would be an artifice from which I should derive no benefit.

In reviewing the testimony the court I think must at once perceive a strange variety in the statements of the different witnesses, though the times at which the different transactions took place, are all important, and any two of the witnesses agreed in this respect. The court

will recollect that there are three documents in evidence, which appear to form the articles of capitulation. These are all dated on the 16th of August—one purporting to be the articles of capitulation; the other purporting to be a supplement to the articles, and the third purporting to be an addition to the supplemental articles. There is also a fourth document, being a letter directed to the commanding officer of the Rapids, which purports to be an explanation of the articles of capitulation. Before I make any observations on this testimony, I will give the court a relation of my conduct in respect to the surrender, and state the motives which influenced me. If a departure from the formal ceremonies and etiquette of modern warfare, where civilized manners the belligerents, will condemn me I must submit. But I do persuade myself that this court will consider my peculiar situation, and the character of the enemy which was opposed to me; and that I will be thought excusable if I permitted a precipitation, to which some forms and pageantry were sacrificed, with a view to save from the cruelty of the savages many brave men and many families of parents and children.

As soon as I found that the enemy intended a serious attack upon Detroit, I knew that sooner or later my army must fall. I know that even victory would not save me, and could be but a temporary advantage. The certain consequences of defeat I could not contemplate without horror. It presented a scene which I need not attempt to describe. It is obvious that it would have left our savage enemies to indulge, without restraint, their passion for rapine and cruelty. The small body of regulars which I had with me I was obliged to keep in the fort for its protection; I had no other troops that understood the management of cannon; with one third of the residue of my force absent, and with nothing to rely upon, out of the fort, but untried and undisciplined militia, officered by men, most of whom were in hostility to me, and had even conspired against me. What was I to expect from such a contest? I determined, at any rate, that I ought, if it were possible, to ward off the attack, and gain time until the detachment under Colonels M'Arthur and Cass, who were my two senior officers, might return.

The court will recollect that I had sent an express for them, as soon as I received General Brock's summons on the 15th. After the line was formed on the 16th, as appears by the testimony of Captain McCormick, Colonel Van Horne and Major Snelling, I visited the troops, where they were drawn up. I then went to the fort in expectation of hearing of the absent detachment; but receiving no intelligence from them, I determined to propose a cessation of hostilities—to treat of a surrender. I accordingly sent a flag over the river, and when the British officer came to enquire the meaning of that flag, I sent the note to General Brock of which Major Snelling speaks. That these were my views when I sent the flag, appears by the testimony of Colonel Miller to whom I explained myself on the subject. I do not recollect what

were the precise words of this note, but I think it will appear very evident to the court that the contents of it could not have been as Major Snelling has stated, neither more nor less than an offer of unconditional surrender. For according to Major Snelling, the first question General Brock put to him, after he had read the note, was to ask Major Snelling if he "was authorized to agree on terms?" No such question would have been asked if I had offered to surrender without terms.

As soon as I had determined to negotiate, I also determined to change my position for defence. I thought it better to draw the troops to the fort, and if I made a resistance, it was my opinion that I could do it to most advantage by manning the fort with a full complement, and forming a line, supported on the right by the fort, and on the left by the citadel and the batteries on the bank of the river, having in front a line of pickets which extended from the fort to the citadel, and which was intended to cover the communication between one and the other. With these views and intentions I ordered the troops to the fort, intending to post them from thence before the negotiation should break off, if there should be no terms agreed upon. When these orders were given, I had appointed Colonels Brush and Miller to repair to a tent without the fort and treat with the enemy. At this moment I received the intelligence that the two companies mentioned by Major Anderson, Knagg's and Shover's had gone over to the enemy, and heard from Colonel Brush, the declaration that by God every man of his regiment had, or would desert. The consequences of such a defection immediately secured to me. Colonel Brush's troops had been posted to guard the upper part of the settlement. If they made no resistance, there was nothing to hinder the British and their savages from landing above the town, and while we should be engaged with the invaders from the south, the savages would be making indiscriminate slaughter of the inhabitants, through the whole extent of the northern part of the settlement. From this moment I determined to surrender on the best terms I could obtain. I told Colonel Miller that this was my determination. I went to the tent, Colonel Miller had not arrived there. I had mentioned to Colonel Brush and the British officers the terms I should insist upon, and concluded by saying "I shall surrender," meaning on the terms I had previously mentioned. This was the declaration Colonel Miller heard. After I had explained the terms I had expected, I left the tent and returned to the fort. On my arrival there, I found, to my surprise, that all the troops had crowded into the fort—had stacked their arms, and were in a state of entire insubordination. Let it be remembered that neither of these steps had been taken by my orders. I had ordered Colonel Finley's regiment only into the fort, and it is not proved or pretended that I gave any orders for stacking the arms. I now became impatient to put the place under the protection of the British. I knew

that there were thousands of the savages around us. Every moment reports were brought to me of their depredations, and in the situation in which my troops then were, I could afford no protection to the inhabitants. I was anxious that our enemies should have the command and government, that they might be able to put a restraint on their savage allies, which I had no power to do. An additional weight upon my mind, that had great influence on my conduct, was, what I considered might be the dangerous situation of the detachment under Colonels M'Arthur and Cass.

I thought it possible it might be at a distance, and might be cut off. If we should unsuccessfully resist, I was sure it would. In this state of things the articles of capitulation were brought to me from the tent signed and executed. I accepted them. I gave a copy of them to Major Jessup, as he has testified, and he afterwards read them to the troops, when they marched out at 12 o'clock. These must be considered as the articles of capitulation, and by these my conduct must be tested; for the other two documents, the one styled supplemental articles, and the other an addition to the supplemental articles, are rather to be considered as an agreement between myself and the enemy's general, than as parts of the capitulation. I admit that when these were signed I had no power to resist, if he had not chosen to agree to them, and therefore they are no more to be considered as a part of the capitulation than the letter which bears date the next day. It were these supplemental articles which were signed in Captain Dyson's quarters, and most of the witnesses who speak of what was done before or after the capitulation was signed, obviously speak with reference to the execution of these instruments.

God knows the articles are not what I would have wished to have had them. If I had been warring with civilized man, where the blood of combatants could only be shed, I ought not, and would not have accepted them. But when, upon the consequences of refusing them, depended the lives of so many innocent people, I did not feel myself authorized to reject them. Having put before the court the testimony which relates to this specification, and given my own account of the transactions to which it relates, I will again notice the accusations, and make some few observations upon them.

The first accusation is that I surrendered before the capitulation was signed. This is certainly disproved. There was not an enemy in the fort before the capitulation was brought to me from the tent; nor before I delivered a copy of it to Major Jessup. The testimony of Colonel Miller is conclusive upon this point. He says there were no British troops in the fort when he brought me the capitulation from the tent.

A second accusation is, that I did not stipulate for the honours of war.

Among the variety of circumstances, in my situation, which I had

to deplore, and which agitated my mind to a great degree, there was none that excited my own feelings more than to find, that though this provision had been inserted in the articles as originally drawn by the commissioners, it had been stricken out; I thought of rejecting the articles on this account; I must have then opened a new negotiation. I have already stated what appeared to me as the consequences of further delay—the savages were unrestrained. I determined not to expose the lives of the inhabitants, to their fury, for the sake of obtaining so useless a pageantry.

The articles are also condemned—because they contained no stipulation for the security of the friendly inhabitants of Canada. With respect to the people of Canada who had been friendly to us and who had remained in their own country when we retreated, no stipulation in their favour was necessary. The British had offered full pardon to all their subjects who had shown any disaffection—and when the capitulation was signed, there were none in Canada who had not availed themselves of this offer. With respect to those who were with us, the capitulation does contain an article in their favour—they are unquestionably included in the third article, which provides that “private persons and property of every description shall be respected.” But, sir, a stipulation in favour of Canadians who were with us at the time of the surrender, was in fact entirely a matter of supererogation; because, according to the best of my recollection, there was but one person of that description with us at the time of the capitulation—and he is now an officer of rank in our army.

The evidence that any stipulation for the security of the Canadians, other than what the articles contained, was unnecessary is, that it is the undoubted fact, that from the time we retreated from Canada, no individual has suffered in his person or property on account of any part he may have taken against his own government—or on account of any connexion which he may have had with our army. The specification states other objections to the capitulation—but as they are of an inferior nature and must be excuseable if these I have noted are so—I shall not trouble the court with any remarks upon them.

Something has been said in the course of the trial as to my having, after the capitulation, consented to the surrender of some distant posts. It might be enough to say that there is no specification on this subject; but I will only observe that so far from this being a concession to the enemy, it originated in my suggestion. I reflected that if they should hear of the capitulation, before they were informed they were included in the surrender, they might retreat if they should judge it in their power to do so; but if early intelligence of the surrender should not reach them they would be exposed to the whole savage force of the enemy, and might be sacrificed, unless they were protected by the capitulation. Much testimony has also been given in relation to the situation of the British troops before the surrender, and to show that they were suffer-

ed to approach too near our works before the capitulation was signed. It would be easy to show the strange contradiction of testimony on this point, and to prove that such an accusation would be without foundation. But certainly the accusations against me, and which I am obliged to answer, are sufficiently numerous. The court would hardly think me excusable in trespassing on their patience to make a defence against accusations not preferred: I shall therefore say nothing further as to this suggestion, than that a specification founded upon it is not to be found under any of the charges.

There is, gentlemen, one other charge which I have to answer. It is an accusation which has been most wounding to my feelings, and the discussion of which is the most painful task I have yet had to perform. Not because I have any doubt but that I shall convince you it is as much without foundation as any other, but because it imposes upon me the necessity of examining testimony, which no man, however innocent he may be, can repeat without disgust.

If in the embarrassing and difficult situations in which I was placed, during my late command, I have committed some errors; surely what I have suffered by this prosecution and what I must now suffer in making this part of my defence, will be some atonement.

For more than half a century I supported a character without reproach. My youth was devoted to the service of my country; I fought her battles in that war which achieved her liberty and independence, and which was ended before many of you, gentlemen, who are my judges, were born. If upon any occasion a man may speak of his own merits, it is at such a time as this; and I hope I may be permitted to present to you in very few words a narration of my life, while I was engaged in scenes which were calculated to prove a man's firmness and courage. I shall do it with the less reluctance, because the testimony I have offered of the venerable men who served with me in the revolutionary war, will vouch for all I have to say. In the year 1773, at the age of about 21 years, I was appointed a captain in one of the Connecticut regiments; during that campaign and until March 1776, when the enemy evacuated Boston, I served with the army at Cambridge and Roxbury, and in the immediate command of General Washington. I was with that party of the army in March 1776 which took possession of Dorchester heights; the movement which compelled the enemy to evacuate Boston. The next day the regiment to which I belonged marched for New-York. I was on Long-Island when the enemy landed, and remained until the night the whole army retreated. I was in several small skirmishes both on Long-Island and York-Island before the army retired to the White Plains. I then belonged to Colonel Charles Webb's regiment of Connecticut.

This regiment was in the severest part of the action on Chatterton's Hill, a little advanced of the White Plains, a few days after the main body of the army abandoned New-York. This battle is memorable in

of my country, and the regiment to which I belonged received the orders of General Washington, in his public orders, and his conduct on the occasion. It was particularly distinguished by the other troops engaged in the action. I received a musket ball in my side, but it did not prevent me from standing at the head of my company.

After the battle of Brandywine, when the Hessians were taken in Delaware, I was appointed one of the youngest captains in the army, was promoted to Major, and followed General Washington, the day after the battle to a post near Red Bank on that occasion. The first of January 1777 he ordered me to command the regiment in the campaign of the same year. In the spring of 1777 I was ordered to Philadelphia, and I was appointed to command the regiment in the northern army. I was ordered in the spring of 1777 to Philadelphia, and commanded the regiment during the siege of Fort Mifflin, and under General St. Clair, and I was ordered to command the post at Fort Mifflin.

After General Schuyler's retreat to Fort Mifflin, I followed him to the junction with General Schuyler's army at the Schuylkill, and the regiment to which I belonged was ordered to march to Fort Schuyler, and remained that post, which was besieged by the British.

On the retreat of General Schuyler from Fort Schuyler, I commanded the rear guard of the army, and was ordered to march to Fort Mifflin, which was attacked by a large body of British troops at daylight in the morning, in which action were killed and wounded between thirty and forty of my guard. And I received the principal thanks of General Schuyler for my conduct on that occasion.

I was in the two months of the month of September and the 7th of October, in the month of September, I commanded a detachment of 100 men, which was the principal part of the afternoon, and more than half of them were killed or wounded.

On the 7th of October I took the command of a detachment from the brigade which assisted in attacking the British on the left of our position, defeated him, followed him to the right, his lines, stormed his outposts, and took and held possession of the right of his position, which compelled him to retreat to Germantown and there to capitulate.

After the memorable event of the capture of General Burgoyne's army, the regiment to which I belonged, was ordered to Pennsylvania, to join the army under the command of General Washington. I remained with the army the winter of 1777 at Valley Forge, and in the spring of 1778, when the British army evacuated Philadelphia, I was in the battle of Monmouth.

From December 1778 to May 1779, I commanded the American posts in advance of the White Plains, near Red Bank, during which time I had various skirmishes with the enemy. In May 1779 the prin-

principal part of the British army advanced up the North River to West-plank's and Stony point, and I was ordered to retreat, being driven to West Point.

I then joined the light infantry under the command of General Wayne, and was in the memorable attack on Stony point with separate command of 400 light infantry.

For my conduct on this occasion I received the particular thanks of General Wayne, General Washington and Congress.

In the summer and autumn of 1780 I commanded the advanced parts of the army, and in December of that year I commanded an expedition against the enemy stationed at Mifflin's, which was successful, and for which I received the thanks of General Washington in his general orders to the army and likewise the thanks of Congress. General Washington in his orders I well remember said, "use these words, 'I have thanked me for my judicious arrangements in the plan of operations, and for my intrepidity and valor in the execution'."

From the conclusion of the revolutionary war I have lived with the respect of my countrymen, and have enjoyed repeated marks of their confidence in the offices which have been bestowed upon me. When I found that the independence for which I had so often fought, was assailed, that again my country had appeal to arms to avenge her wrongs, and to protect her rights, I felt that I might yet do her some service. For though many years had passed since I had fought under her standard, and though my own arm might not have had it's wonted strength, yet my spirit was unabated, and my devotion to her unimpaired. I thought in the heat of war there could be but few who had any military experience, what I had labored in the most active scenes of a seven years war, might be useful. I had hoped that in my age, as well as in my youth, I might render services that should deserve the gratitude of my country. That I then by the sword of her enemies, my grave would be moistened with the tears of my countrymen; that my descendants would be proud of my name and fame. But how vain is anticipation! I am now accused of crimes which would blast my former honours, and transmit in memory with infamy to posterity. And in that hideous catalogue, there is none but the imputation of which my literature and my feelings have more recoiled than from that of cowardice, to which I am to answer. I shall confine myself under this charge to the specifications, or to such part of the specifications as relate to my personal deportment.

Almost every act omission or of commission, during the campaign, which it has been thought proper to censure, have been ascribed under this charge, as they have all been imputed to cowardice. But as most of the acts have been specified in support of other charges, I shall not again notice them, but confine myself to the allegation, that I showed personal fear, and a want of courage.

However painful the recapitulation of the testimony on this point,

must be to me, it is so necessary that it should be brought together, that you may have it before you in one view, that I shall go through the disagreeable task of repeating it.

The first witness, in point of fact as well as importance, is Major Snelling; he was a captain when he joined the army at Urbana, but is now a colonel.

He testifies as follows: "during the cannonade I frequently saw the general. I once saw him standing. He might have risen twice. Most of the time he was sitting on an old tent under the curtain of the fort, opposite the enemy's batteries. I have been taught to believe that there are certain human passions which are indicated by appearances, and the appearance of General Hull, according to my mind, indicated fear."

The reasons that induced me to draw that conclusion were, that the general selected the safest place in the fort for his seat. His voice trembled when he spoke. He apparently unconsciously filled his mouth with tobacco, so that his cheeks were extended by it. The saliva ran from his mouth on his neckcloth and clothes. He often rubbed his face with his hands, and distributed the tobacco juice about his face."

He further testified, on his cross-examination, that when he returned from Spring-wells, at the dawn of day, on the morning of the 16th, he went into the fort to make his report to General Hull, but could not find him, nor find any one who knew where he was. He said he did not know if General Hull was in the fort at the time the officers were killed; he saw him immediately afterwards. After the men were killed, it might have been 15 or 20 minutes before he saw Captain Hull with the white flag; it might have been an hour, but he did not think it was.

The witness could not say that he saw General Hull in the situation he has described, between the time the men were killed, and the sending the flag by Captain Hull. He recollects that at the time Captain Hull was fixing the flag, General Hull was standing, and was in the situation he has described. General Hull was out of the fort early that morning, but the witness does not know where he was. At the time the enemy was crossing, the general was standing on the parade.

I wish the court to notice the great attention which Major Snelling paid, to be particular in very minute circumstances, in giving his testimony, not only as to the positions in which he saw me, but when his examination was read over to him, and he found, that as it stood, it represented that he had said that I had distributed the tobacco over my face; he desired that it might be corrected so as to state that what he had said was, it was confined to the lower part of my face.

Captain McCommick testifies as follows—"I was not present when Colonel Findley received orders to march into the fort. I joined him as he was going into the fort. He told me of the order and said he

would not obey it, but would go into the fort himself, and directed me to form the regiment. The colonel then came back, and was to me as to tell me to let the companies march up, and I did so. This witness then relates what passed between Colonel Findley and myself, and proceeds as follows.

"The general appears very much agitated. He appeared to be under as much alarm as I ever saw a person. He had been chewing tobacco, and the lower part of his face and his vest were covered with it."

On his cross-examination he testifies that it might have been ten minutes, or half an hour or more after the firing ceased before the troops were ordered to march into the fort. That it was at least half an hour after the firing before the witness went into the fort. That he saw me once that morning out of the fort, and thinks I was near where Colonel Findley's regiment was forming the line of battle behind the picket-fence. Colonel Van Hook, who was a major of Colonel Findley's corps, testifies that after Colonel Findley's regiment was formed, on the morning of the 16th of August, and about an hour, or half an hour before the flag was hoisted, I was at the line. That this was during the cannonade. That at about the time the firing ceased, Captain Snelling came with orders that Colonel Findley should return with his regiment to the fort. The cannonade had then ceased. The witness turned round and saw the flag hoisted on the fort. The witness further stated that he then went into the fort with his battalion, and after he got in he saw me—but is not certain whether I was there when he entered. The witness then proceeded as follows—"When I first saw General Hull he was on the steps going into one of the rooms—his face was discoloured with tobacco juice. It was over the lower part of his face and a spot was over his eye. I thought he was under the influence of fear. I had no doubt of it."

On his cross-examination he says, that he saw me on the night of the 15th, and as he thinks about midnight, and before the cannonading had ceased, at the place where Colonel Findley's regiment was formed that night.

He saw me the next morning out of the fort at Colonel Findley's quarters, and again at the line of battle. When the witness was asked whether care and anxiety might not have produced the appearance he described, he answered that care and anxiety might have added to those appearances—but upon comparing faces, he thought mine had the indications of fear. Captain Baker testifies as follows—"I saw General Hull on the morning of the 16th, he appeared to me to be embarrassed and at a loss how to act. I had but one opinion which was that he was under the influence of personal fear. I could not account for the surrender in any other way." On his cross-examination he said—"On the morning of the 16th, during the cannonade I saw the General in the fort, sometimes sitting, sometimes walking, and sometimes standing."

Major Jessup testifies, that on the night of the 15th of August he found me, at about 11 o'clock at night, laying on the piazza of the barracks in the fort with my boots and clothes on. That in the morning when he awoke at day-break I was not there. I saw the general, says he, on a tolerably safe place—as to his being afraid I cannot say whether he was or not. I saw the general on the parade ground. I did not see any necessity for his exposing himself more than he did.

Major Jessup testifies, that on the morning of the 15th, after the cannonade commenced, he, in company with Mr. Dugan, met me on horseback in the street near the second battery. He says—"The general appeared to be agitated—either Mr. Dugan or myself observed the general was frightened. One of us said we must cheer him up. We approached him and spoke to him. He appeared pale and confused—immediately dismounted and set his horse towards the fort."

"I did not see General Hull till about break of day on the morning of the 16th, when the general came to my tent and directed me to write an order for the return of Colonel Cass and M'Arthur."

"The witness further testifies, that shortly after the enemy commenced their fire—that at the request of Colonel Findley he went to me to have an explanation of an order which had been delivered by my aide-de-camp—that he found me and received directions from me for forming the line of battle.

"That while he was attempting to collect some dragoons, of which I had directed him to take the command, he saw that our line was breaking and retreating towards the fort. He then looked towards the fort and saw the white flag flying from it. That at the request of Colonel Findley he then went to the fort. The witness then proceeds as follows: "I found the general in the fort—I thought him very much frightened. When I met him I enquired of him if it were possible we were about to surrender. He said something about terms, and something about the enemy's force which I do not recollect. His voice at that time was tremulous. I observed we could at least hold out 'till joined by Colonel Cass and M'Arthur. He replied my God what shall I do with these women and children."

"The witness then states that he left the fort, went to Colonel Findley and did not see me 'till terms of capitulation had been agreed upon—That then I was perfectly composed. The witness also testifies as follows: "When I came to report to the general after reconnoitering the enemy, I found him on the side of the fort next the enemy, completely sheltered, sitting on a tent beside a bed, at the same time I reported that our guard, the most advanced towards the enemy, had surrendered. The general said that Colonel Brush had reported to him that his men were leaving him. After that when I met the general in the fort, and after the flag was hoisted, he exclaimed that four men had been killed

by one shot! He appeared so alarmed as not to know what he was doing."

The witness then describes my appearance at that time nearly in the words which had been used by other witnesses.

The witness in a subsequent part of his examination stated that at the moment when he was in conversation with me on the evening of the 15th, near the second battery, I was very much agitated. That I appeared much agitated, he stated he tried to get rid of without making him a reply. Whenever I saw the general say the witness, before the capitulation was signed, he appeared agitated, afterwards, entirely composed. Whether the agitation preceded the novelty of his situation or fear I cannot say, but I believe the latter, if not both."

Captain Eastman testified as follows: "On the evening of the 15th, a shell appeared to be coming into the fort. General Hull ran towards the north-west bastion apparently in a hurry, and to get under cover of the platform. The general appeared alarmed and frightened; and I also observed it to my companions at the time."

Lieutenant Philip Testimony. "I saw General Hull on the morning of the 16th, most part of the time during the cannonade he was sitting with his back to the parapet near the battery. He was sitting there with a number of gentlemen. I recollect one gentleman and one lady near to him. He appeared to me under the influence of fear; he appeared very much agitated. I think Doctor O'Connell was the gentleman that was with him. There might have been other officers with him, but I do not recollect."

Colonel Miller testified as follows: "I did not observe any agitation in the general on the 15th, on the 16th he did appear much agitated. He was in the fort sometimes sitting and sometimes standing and sometimes walking. Whether his agitation proceeded from anxiety on account of the responsibility he was taking, or from personal alarms I cannot say. After the surrender he told me he was afraid if he had fought the enemy they would have taken advantage of that part of his proclamation which declared that no white man takes fighting with an Indian should be spared."

On his cross-examination Colonel Miller said: "I saw no act of the general's on the morning of the 16th, which I can say might not have proceeded from the anguish and responsibility he was under."

I put to Colonel Miller the following question: Can you mention any act of mine on the 16th, which you did then or do now impute to personal fear?

To this the witness answered: "yes I did think such an unbecoming surrender must have proceeded from your fear."

To the following questions, did you see me while I was in the fort in my place or station unfit for a commanding officer?

The colonel answered, "I can describe to the court where the general was, and the court can judge."

"He was generally near the easterly parapet of the fort. I was there part of the time myself. The general leaned down. The whole easterly side of the fort was as high as the spot where the general was for the most part of the time. The general's station was the most convenient to receive communications from without the fort."

"Colonel Miller upon a re-examination further testifies, "that he had frequently observed a habit which I had when I was much engaged, of showing tobacco to my own and taking it from my mouth with my fingers and rolling it to my fingers, and putting it in my mouth again, and rolling it from my mouth to my fingers alternately."

"That he observed more of this habit on the 16th than usual, and thought the addition might be owing to want of rest, from fatigue."

Major Wheeler says my appearance induced him to think I was under the influence of personal fear.

Lieutenant Peckham testifies that he saw me on the 16th of August, and says, I had no doubt but that the general was under the influence of personal fear, from his embarrassment, as he sat still and gave no orders.

Major Munson testifies that he saw me on the 15th of August, and saw me again on the 16th, after the capitulation was settled. He adds, "the general's situation was critical. If he had had any feelings he must have had great care and anxiety. I saw nothing which might not have been accounted for without respecting to the impression of personal fear."

On his cross-examination by the court, this witness says, "It was 30 or 15 minutes after the officers were killed, that he saw me sitting in one of the officers quarters but does not recollect that it was during the bombardment, either on the 15th or 16th, that he saw me."

Captain Maxwell testifies that he served in the revolutionary war—was engaged in the affair at Brownstown, under Colonel Miller, which made the twenty third battle in which he had fought.

That after the cannonading commenced on the 15th, he saw me on horseback at one of the batteries.

That I had a conversation with the officer commanding at the time the balls were passing and repassing; that he took notice of my countenance, and that I appeared firm, collected and cool; that I sat 4 or 5 minutes on my horse and rode off again.

That he did not see me on the 16th. That at the time the army was retreating from Sandwich, there was a clamour that I was intimidated, and that was the reason why, on the evening of the 16th, he particularly observed my countenance.

General Taylor testifies, that he saw me several times on the evening of the 15th, during the cannonade; that there was no impression made on his mind of my being under personal fear on that day or even-

ing; that I appeared to be thoughtful and very attentive; that I heard no indication of inspiring the men; that I saw no signs of dull; that he saw me near the gate, and that I ordered the men Findley to move from the upper to the lower side of the fort, and any specific orders how to form. Early on the 16th, information came that the enemy were preparing to enter and we ordered the men to resist them. That my appearance was more of the mark of the bacco than he had generally seen; that he was under the impression was, that I was under the impression that I was going to see me again until the day was hot, that when he saw me near the gate, on the 16th, he was very much surprised, and ordered the rest Captain Snelling, that he did not consider him as being in danger from danger.

Captain Bacon testifies that he saw me in the fort on the 15th and 16th. That on the 15th he saw me with Dr. Cunningham and his wife, sitting on some benches, that he saw some other persons there, some of whom he thinks were officers. That during the cannonade he saw me in the passage of the fort, once on the evening of the 15th and once on the 16th. That he saw me in different places about thearrison during the cannonade. That I seemed engaged as usual, but sat silent on the morning of the 16th more than common; that he did not know the cause, that he had no suspicion that it was personal fear; neither did he hear such a suspicion expressed by any of the officers; that after the shot came which did execution, the officers and men very generally were on the eastern side of the fort, upon the protection of the breast work the enemy.

Judge Withersell testifies that he saw me on the 16th, during the cannonade near one of our batteries; when, from all he saw, I was shot and collected.

I believe, gentlemen, I have now collected, and presented to you in connexion every article of the testimony which has been offered in support of the specification under this charge, which relates to my personal appearance and deportment. Such facts of the testimony as have the most bearing, I have endeavoured to repeat, in the witness's own words; and have done it with as much accuracy as the notes taken by my counsel would permit.

Before, gentlemen, I proceed further on the examination of this testimony, allow me to lay before you an extract from an author of great respectability, containing rules not inapplicable to the present occasion, by which the credibility of witnesses ought to be tested.

A witness, says Mr. Tyler, in his Essay on Military Law, who amplifies his testimony, unnecessarily enlarging upon circumstances unfavorable to a party—who seems to be gratified by the opportunity of furnishing condemnatory evidence, or manifestly betrays passion or prejudice in the substance of his testimony, or in the manner of delivering it, is to be listened to with suspicion of his veracity. If a

witness, the author adds, "takes upon himself to remember, with the greatest minuteness, all the circumstances of a transaction long since past; and which are of a frivolous nature, and not likely to dwell on the memory, his testimony is thereby rendered very suspicious."

I ask the members to test the testimony which has been given against me by these rules. Were there not many of the witnesses who amplified their testimony, and unnecessarily enlarged upon circumstances unfavourable to me; who seemed to be gratified by the opportunity of furnishing condemnatory evidence?

I appeal to the court to judge of the manner in which the testimony of some of the witnesses was delivered, and whether they did not betray a warmth that could not leave them free from a suspicion of strong prejudice or bias.

Major Snelling has certainly taken upon himself to remember, with the greatest minuteness, circumstances of a frivolous nature.

He remembered that my cheeks were swelled with the tobacco I put in my mouth.

He remembered that my neckcloth and vest were soiled, and the tobacco was distributed about my face; and when his examination was read over to him, his recollection was so extremely accurate as to the most minute circumstance, that he insisted upon what had been written to be so corrected as to read, that it was the lower part of my face which was soiled; though on this particular he is contradicted by Colonel Van Horne, who, it appears, was no less observing of minute circumstances, and whose memory is not less tenacious of them. Colonel Van Horne recollects, and has been very particular in stating, that there was a mark made by the tobacco over one of my eyes; he was so very minute as to observe that it was over my left eye, though I believe it is not so recorded in his testimony.

Major Snelling's correction with respect to the situation of the tobacco on my face, will not appear in the record of his testimony; but it will be brought to the remembrance of the court by my reminding them, that, when Major Snelling proposed the alteration in the record, so as to state that he meant to have spoken only of the lower part of my face, I objected to its being altered on the minutes, and wished that it might appear from the record of the evidence, that this was a correction of his. But, gentlemen, the opinion of Major Snelling that I was under the influence of personal fear, as well as the same opinion of other witnesses, who have very nearly followed his words in their description, is formed, as they avow, from my appearance, and from my situation and conduct in the fort.

A correct and certain judgment of the emotions of the mind, from indications of the countenance, or from mere personal appearances, can hardly ever be formed; and it must be infinitely difficult to do so when fatigue, anxiety, and a great responsibility may, all at the same time, be producing their effect.

Major Snelling, though a very young gentleman, it is to be presumed has great acquirements; and it would seem, from his testimony, that the human passions have been the object of his study. He introduces his testimony on this point with these words: "I have been taught to believe that there are certain human passions which are indicated by appearances; and the appearance of General Hull, in my mind, indicated fear."

I hope that these professions of Major Snelling will not give his opinion an undue weight, because he has not told us in what school he acquired his science in physiognomy; nor has he given us the rules by which, when the mind may be under various excitements, he can distinguish the appearances which will indicate the prevalence of one over the other. Major Snelling, I have no doubt, when he gains more age and experience, will find that the indications of appearances, in respect to the human mind, are fallacious.

His own case may afford an evidence of it. I myself, and many who heard his testimony, and that of many others of the witnesses, and marked the manner of it, thought that they manifested great passion and prejudice against me,—that they seemed gratified with the opportunity of furnishing condemnatory evidence. These appearances may have been fallacious; but if they were so, it is strong evidence that the most erroneous conclusions may be drawn from expressions of countenance, tone of voice, and eagerness of manner.

I beg it may be observed that most of the witnesses, except Major Snelling, who have given their testimony on this point, did not see me in the fort, until after the flag was hoisted, when there was, of course, a cessation of hostilities, nor until after I returned from the tent.

The witnesses have all endeavoured to impress on the minds of the court that I intended, in all events, to make an unconditional surrender. If this were the case, where was the occasion for personal fear, after I had invited, by the flag, a negotiation, and had stopped the enemy's fire? Major Jessup says, that when he saw me, before the capitulation was signed, I appeared greatly agitated, but that afterwards, I was entirely composed; and yet, as Major Jessup did not see me in the fort, on the 16th, until after the negotiation was commenced, there was no more ground for agitation, from personal fear, when he saw me on that day, previously to the capitulation, than there was after that event.

There is a part of Major Jessup's testimony which is certainly worthy of remark. His power of judging of the human passions from appearances, is even superior to Major Snelling's; because from his testimony, it seems, he can perceive the appearances when the object is at some distance. He states that when he and Mr. Dugan saw me on horseback, on the 15th, I appeared to be frightened. One of them said we must cheer him up. We then approached him, says the witness, and spoke to him—he appeared pale, &c. so that they had, according

to this testimony, perceived that I was frightened while I was on horseback in the face of the enemy's fire; and before they had approached me, or spoke to me.

I do not deny that on the morning of the 16th I was greatly agitated, my body was worn with fatigue; and my mind was filled with the deepest anxiety. On the one hand I well knew the consequences of a surrender. I knew how unfortunate it was for my country that I should be obliged to yield; I saw the consequences to myself; I knew that the disappointment of the high expectations which had been raised would be charged to me, and that all the faults of others, to which in fact the failure of the expedition was owing, would be laid at my door. I saw too, what was intended to be the effect of the opposition of my officers to a measure they knew I must or would pursue. In proportion as they found me decided on this final step, they became insolent in their opposition, and were most so when it was ascertained that they would not meet the enemy, and could not be punished by me. They foresaw that great reputation was to be purchased at so cheap a rate, as appearing highly averse to the surrender; and afterwards publishing to the world all they said and did, as evidence of my criminality and their own heroism: While all these considerations enlisted every private feeling against the surrender, my mind was agitated by the opposite demands of duty; the dreadful consequences of unsuccessful resistance, or indeed of any thing less than a most decisive victory, filled my thoughts. In the midst of a people among whom I had lived so long as to be known to almost every inhabitant, all of whom looked to me for protection, and many of whom had sought safety in the fort. I could not reflect on the horrors of a general massacre which would have been the consequences of a defeat, without emotion. He who, in such a situation, could have been perfectly tranquil—whose appearances should have discovered no agitation, must have been either less or more than man: He must have been denied the sensibilities common to our nature, or been endowed with faculties more than human.

When the court considers my situation; how many causes there were to excite strong emotion; will they believe that the witnesses who have testified on this point, were capable of such discrimination as would enable them to ascertain, that the appearances which they have described proceeded from personal fear? Major Snelling professed to have been uninstructed in this branch of science, but Captain McComnick who was not in the fort 'till after Findley's regiment marched in, made no such pretensions; he appeared to found his judgment on his natural instinct, and indeed he did right not to make a claim which was out of the first stage of civilization: to which rank, notwithstanding his tawdry regimentals, it was evident he belonged.

Several of the witnesses have given their opinions on this subject, with less confidence, and some qualifications. Colonel Van Horne has admitted that *care and anxiety*, might have added to the appearances

which he described. His belief, however, as to what relates to personal fear, he says, he formed from a comparison of faces, by which he judged that mine indicated fear.

I believe, sir, that in the comparison of countenances, when I was surrounded by my officers at the time of the surrender, a vast difference might have been observed between the expression of many of their's and mine. If my countenance expressed what I felt, it must have shewn traces of the painful anxiety, by which I had been oppressed, and marks of the deepest regret for the measures I had been obliged to pursue; while other faces might perhaps have beamed with the exultation which the minds of some men feel, when they look upon what they may think a fallen man.

Possibly, there may have been around me, those who felt and whose countenances expressed a joy, that, by the capitulation, they had purchased personal security, and avoided a bloody contest, at the expense, as they supposed, of my character and honor.

General Taylor also concluded from my appearance, that I was under the influence of personal fear. He gives you the grounds on which he drew his conclusion—They are that I appeared thoughtful and very low spirited; that my countenance was dull, and that he saw about me more of the marks of tobacco than was consistent with neatness. Are these grounds which will warrant a conclusion that is to affect the life of a man? As to what has been said on this disgusting subject of the tobacco, I will dismiss it as to all the witnesses, with a reference to the testimony of Colonel Miller, who professes that I had a habit, which might have produced all the appearances, which the witnesses say my showing had produced. It is known that where there is a habit of using tobacco, it is commonly (unconsciously) taken to excess, whenever the mind is much occupied; even the excitement, that some of the witnesses who use tobacco, felt while they were under examination, deluged this floor with their expectorations.

Major Munson saw me in the fort 15 minutes after the officers were killed. He does not recollect that the cannonade then continued. But I beg the court to remark, that he speaks of a time, to which the testimony of any of the officers, who have spoken of my personal appearance, must refer.—He says he saw nothing which might not have been accounted for, without resorting to the supposition of personal fear.

Captain Maxwell did not see me on the 16th, but on the 16th he saw me in a situation where, I was exposed to the fire of the enemy. He says that I was collected and cool. He informs you why he was induced to notice my appearance; and his testimony is of some importance, because it shews, that, as early as the retreat from Canada, my officers had begun to propagate imputations on my courage; and because his testimony must relate to the same time when Major Jessup says he saw me on horseback, and observed such strong indications of fear. If, Sir, the opinions of these two witnesses, are in opposition, the court

must determine whether they will rely on the veteran, who has been twenty-three times engaged with the enemies of his country, or the young gentleman, who at the time he speaks of, was about 25 years of age, and who knew no more of battles than what he had heard or learned from books.

The testimony of Judge Witherell, who was a revolutionary officer, who also saw me on the evening of the 16th, is likewise in opposition to the testimony of Major Jessup.

Captain Bacon says, I was much agitated on the morning of the 16th, but that he had no suspicion it was personal fear; neither did he hear such a suspicion expressed by any of the officers.

The deposition of Major Anderson I have not been able to procure in time to submit to my counsel, previously to my defence being closed. It is very important, not only as it respects the point now under consideration, but the court will find that there is a great variation between his testimony and that of General M'Arthur, in relation to the fortification at Sandwick. But as I would not ask another postponement of the court, for the sake of making any further observations on the testimony of Major Anderson, I must rely upon the court to examine his deposition, and to give his testimony its due weight. There are some of the witnesses who have given a mere naked opinion, that I was under the influence of personal fear, without assigning any reasons for their opinions, whose testimony I shall not notice. It is impossible it can have any influence in the minds of the court.

Major Jessup said, that whether the agitation which he described, proceeded from the novelty of my situation or fear he could not say, but he believed the latter, if not both.

Captain Baker said he was of opinion that I was under the influence of fear, as he could not account for the surrender in any other way. This explanation of Captain Baker may afford a key to much of the testimony on this point. He, like many other of the officers, thought the surrender unnecessary. They did not concern themselves with considerations of what might be the consequences of resistance—they therefore saw no other motive for the step I had taken, than my own fears; they, therefore, when questioned on this point, said they thought I was under the influence of personal fear, because I surrendered.

I beg the court to note, that Colonel Miller's answer to the interrogatory put to him on this subject, is to the same effect, although he was stationed in the fort, and I had been in the fortress from the commencement of the cannonade till the surrender. He says, he saw no conduct of mine which might not have proceeded from fatigue and the responsibility of my situation, and that he could mention no act of mine, which he did then, or does now impute to personal fear, but the surrender; and yet Colonel Miller had better opportunity of observing me, than any other witness. He was an older and a more experienced soldier than any who have given their testimony; many of whom heard

the report of an enemy's gun for the first time, at the time to which their testimony relates.

If, gentlemen, your decision upon this point, could rest upon the weight of the opinions given by the witnesses called by the judge advocate, the preponderance would be in my favour. The opinions of Colonel Miller, he having been placed in a situation which gave him such superior advantages for critical, deliberate observation, must deserve more respect than the testimony of all the inexperienced and young men, who only saw me occasionally, on the morning of the 16th, and who have attempted to support this charge by their opinions.

So far as any of the witnesses have founded their opinion that I was under the influence of personal fear, upon the act of surrender, as is the case with Colonel Miller and Captain Baker and others, their testimony can have no weight. The court have the same opportunity of drawing a conclusion from that fact that they had. I have endeavoured to satisfy the court that that act was justifiable, or at least that I had strong reasons for thinking it so, and if this was the case, it cannot be made the ground of condemnation, because witnesses may have made it the foundation of their opinion of my want of courage.

But, gentlemen, there is no example of the opinion of witnesses on this subject ever having been received as evidence on which to ground a conviction.

Expressions of the human countenance, and the manners of men, are but fallible indications of the workings of the human mind. The difference in appearances, produced by the excitements of different passions, are too subtle to admit of observations from which any conclusions may be drawn; much depends upon constitution, and often much upon the temporary physical condition of the body.

A man worn with fatigue of body or mind, and pressed with a thousand dreadful anxieties, may, though on the point of inevitable destruction, forget his own fate, and be only moved by the condition of those around him; while the superficial observer would impute his agitation to the dread of death. The uneducated spectator who has not been taught, as Major Snelling has been, the indications of human passions, would most probably see in the countenance and manner of the Laocoon, only expressions of terror and bodily pain; and would not understand that the artist has expressed in the countenance and convulsive agitation of a dying father, agony of mind, excited by the torture of his expiring children.

There never has been, and in justice, never can be a conviction under this charge of cowardice, but when a want of courage is indicated by the omission or commission of some act in violation of the duty of the person against whom the charge is made.

I shall conclude my observations upon that part of the evidence which relates to my personal appearance, with some extracts from an English Historian, who gives an account of the trial of Lord George

Sackville, who was tried for misconduct at the battle of Miunden. Doctor Smollett having stated that some testimony was given to prove that when certain orders were delivered to Lord George, he was alarmed in a very great degree, and seemed in the utmost confusion; subjoins remarks, from which the following are extracts.

"The candid reader will of himself determine whether a man's heart is to be judged by any change of his complexion, granting such a change to have happened."—"Whether it was likely, that an officer who had been more than once in actual service, and behaved without reproach, so as to attain an eminent rank in the army, should exhibit symptoms of fear or confusion, when in reality there was no appearance of danger."—"With respect to the imputation of cowardice levelled at Lord George by the unthinking multitude, and circulated with such industry and clamour; we ought to consider it as a mob-accusation, which the bravest of men, even the great Duke of Marlborough, could not escape. We ought to view it as a dangerous suspicion, which strikes at the root of character, and may blast that honour in a moment, which the soldier has acquired in a long course of painful services, and at the continual hazard of his life. We ought to distrust it as a malignant charge, altogether inconsistent with the former conduct of the person accused."

The testimony of some of the witnesses, appears to have been intended to prove, that I manifested a want of courage, by certain acts, during the cannonade, as well on the 15th as on the 16th; these are, that on the 15th I dismounted and walked towards the fort, when a shot struck a house near me—that I avoided a shell, which appeared to be coming into the fort; and that I remained in the fort in a place of security during the cannonade.

It does appear to me, gentlemen, that if all these facts were exactly as the witnesses could wish them to appear, they would not support any charge. If I found myself unnecessarily exposed to the shot of the enemy, by being on horseback, was it not my duty to dismount? Is it to be considered a dereliction of duty in an officer, to avoid the explosion of a shell? or is it unjustifiable in a commander, when in a fortress that is bombarded, to put himself in a place of security, provided he be in such a situation as that he may give his orders and perform the necessary duty of his station? Judging from what I have seen of service, with the bravest men our country ever produced, I may venture to say that the court would answer these questions in the negative. But yet I must ask the patience of the court, while I give the testimony which has been offered on one of these points; that is to say, my remaining in the fort, and my situation there, a slight examination. The others I do not think worthy my attention.

Major Snelling went into the fort, when he returned on the morning of the 16th from Spring-wells. He was roused from a repose, after having been at a post all night, by the commencement of the cannon-

ade. He remained there till after the flag went out, when he was sent with orders to Colonel Findley's regiment. He appears to have returned to the fort again, about the time that the British officers went into Dyson's quarters. In short Major Snelling was in the fort, according to his account, during the whole time of the cannonade on the 16th, and until the British troops marched in, with the exception of a very short interval, between the sending of the flag and the final surrender. Now during the time of the cannonade, Major Snelling saw me standing but once. His memory is so extremely tenacious of the minutest circumstances, even of a frivolous nature, that he will only admit, as a possibility, that I might have risen twice. The words of Major Snelling are—"During the cannonade, I frequently saw the general—I once saw him standing—he might have risen twice. Most of the time he was sitting on an old tent, under the curtain of the fort, opposite the enemy's batteries."

Whether I was sitting or standing in the situation which Major Snelling describes, is immaterial—I should have been equally safe in either position. It is therefore extraordinary that so unimportant a circumstance should have made such a lasting impression on his mind.

The testimony, however, of the other witnesses called by the judge advocate, does not appear to correspond with the recollection of Major Snelling. General Taylor's testimony is certainly worthy of remark. It appears that, though Major Snelling thought that my taking a position under cover of the parapet of the fort, during the cannonade, was evidence of cowardice, yet Major Snelling himself, it seems, thought he was at liberty to avail himself of the very same protection. General Taylor says he saw Major Snelling, as well as many other of the officers, in the same situation that I generally occupied during the firing, when I was in the fort.

Captain Baker says—"On the morning of the 16th, during the cannonade, I saw the general in the fort, sometimes sitting, sometimes walking, and sometimes standing."

Colonel Miller also states that I was sometimes sitting, sometimes standing, and sometimes walking.

Indeed there could have been no reason for my remaining precisely in one situation during the cannonade, if I had been actuated by an undue regard to personal safety; for it appears that the whole eastern side of the fort was as secure in one part as another. If there were any reasons for giving preference to the spot where the witnesses say I was sitting, it is that it was near the gate—a situation where I could easily be found, and where it was most convenient, as Colonel Miller has testified, to receive reports and to give my orders.

From this post I had the whole interior of the fort under my view, and could communicate my orders to any part. Was I not then in a situation for a commander? The court will recollect that Colonel Miller states, that he himself was sometimes with me, while I was in the

place the witnesses have described—and the fact is, that every officer in the fort placed himself under the protection of the eastern parapet, when his duty did not require that he should be in a more exposed situation. But it has been attempted to prove that I remained in the fort—and took no measures, and issued no orders for a disposition of the troops, after the cannonade commenced. Major Jessup states, that shortly after the answer had been returned to the British summons on the 15th, he met me on horseback, and that I then gave him directions for the disposition which was to be made of the troops for the defence of the town. It is also proved by the testimony of Major Jessup, that in the evening of the 15th I was on horseback, visiting the batteries, while the cannonade continued.

Major Munson met me on the same evening on horseback, when I was visiting the posts.—Major Jessup said he met me on the night of the 15th at about midnight at the position which Colonel Findeley's corps had taken up for the night—I was also, as he testifies, at his quarters, about day-break on the morning of the 16th, while he was writing by candle-light, and gave him directions to despatch an order for Colonels M'Arthur and Cass. And Captain M'Cormick testifies that he saw me on horseback at the time on which the troops were formed, a short time before the firing ceased. Several other witnesses prove that they saw me out of the fort at several times, as well on the 15th as the 16th. What foundation is there therefore for the charge, that during the whole time of the cannonade, I took shelter in the fort?

Major Snelling's testimony is so important as to my personal appearance, that I cannot but direct the attention of the court to any circumstances in his testimony on any other point, which I think may develop the spirit or disposition with which he has testified.—With this view I beg the court to notice that Major Snelling has testified that when he returned from the Spring-wells, on the morning of the 16th at dawn of day, he went into the fort to make his report to me. "But," says the major, "I could not find the general, nor find any one who knew where he was." It has been proved by other witnesses, that I was out of the fort at that time—now, when Major Snelling could not find me in the fort, nor find any body that knew I was there, it seems to me, he might have ventured to say, I was not in the fort at that time. I do think he had at least as good grounds to draw that conclusion, as he had to infer that I was under personal fear, from the appearance he observed.—Major Snelling does in a subsequent part of his examination, say that I was out of the fort early that morning. But whether this report is the time when he made his report, or not I do not know.

I have now gentlemen done with this charge, so far as it respects my personal appearance and deportment. You, who I am to presume, and do believe, are brave and honourable men, will judge of what I must have suffered, to have sat, day after day, listening to imputations of all others, the most wounded in the service, of a winner.—To have

these imputations cast upon me by representations, intended to make me appear abjectly and disgustingly base—To be obliged to bear my name and fame polluted by the testimony which has been given—To be obliged to repeat the language of the witnesses in my defence, and in themselves punishment hardly inferior to that which would be the consequence of your pronouncing me guilty—But, gentlemen, of that upon this charge of cowardice, I am bold to say I have no dread.

I have fought more battles than many of the young men who have impeached me of this crime, have numbered years.

I appeal to the history that bears record of those who were engaged in the bloody contest for our liberties—there you shall often find my name, but not as coward!

I have brought before you the testimony of the few who remain of those who were my companions in arms, in times that tried men's souls—Do they say I am a coward? I invoke the spirits of the departed heroes who have died at my side, by the sword of the enemy, to say if I am a coward. I would call the shades of Gates, Wayne, Schuyler, and of Washington to tell you, how often they have led me to battle, and to say if they found me a coward.

Will you believe that the spirit which has so often prompted me to risk my life for my country, should now so far have forsaken me as that I should have become a traitor and a coward?

Will you believe that the years in which I have grown gray in my country's service, should so far have changed my nature, as that I could have been the base and abject thing my enemies have represented?

No, gentlemen, that blood which animated my youth, age has not chilled. I at this moment feel its influence, and it makes me dare to say, that no man ever did, or can think me a coward.

Before I conclude, permit me to say a few words. It may be thought that I have spoken of the officers, who have been witnesses against me, with too much asperity. They have, in my opinion, forfeited all claims to my respect—but I do not mean to charge any of them with wilful perjury. I believe they have imbibed a prejudice and bias against me which has influenced the perceptions of their own minds. My object, by the examination I have given their testimony, has been, to make that bias and prejudice appear to you. Many of them are young men, who give their country great promise. Many of them, I believe, have good hearts—and such, I know, will one day regret, that they should have yielded to an influence, which has induced them to represent me in colors, that they will be conscious I have not deserved. I know the time will come, when they will consider how they courted my favor, when I was in power, and how they treated me, when they thought I was in disgrace, and saw me in adversity.

When that time comes, and come I am sure it will, let it be a consolation to them to know, that whatever may be my fate, I pity, and from my heart, forgive them. I have now, gentlemen, concluded my

defence; I have noticed every accusation which the judge advocate, in the opening of the cause, mentioned as those which he should rely upon, and which he expected to maintain. I have not left, as I believe, any part of the specifications, to which any testimony whatever was offered unanswered.

Allow, me, Mr. president, and gentlemen of the court, with the most heartfelt sensibility, to return you my sincere thanks for the manner in which this trial has been conducted. For though, as I humbly conceive, there has been some departure from accustomed forms, in respect to the examination of witnesses, I know that the court has been governed by nothing but its own sense of propriety.

The conduct of the members of this court, and of the judge advocates, has been such as I had anticipated, and every thing that I could expect from honorable, impartial, and humane men.

Whatever may be your sentence, I shall always, with gratitude, acknowledge that I have had a fair, candid and patient hearing.

I do feel myself bound to make particular acknowledgements to the special judge advocate, for the delicacy and propriety of his deportment towards me—and though I may feel the force of the talents, with which he has conducted this prosecution, it shall not make me forget what I owe to his humanity and liberality. Gentlemen, my life is in your hands—but you are guardians of what is more dear to me, you are the guardians of my honor. With you, in sacred deposit is that sword, which has been my companion in times that might have appalled the weak-hearted. It has been taken from me, till you shall pronounce that I am not unworthy to wear it. I feel that in justice I may demand it of you—and when I shall receive it at your hands, believe, that here is yet enough of heart and life, and in this arm is yet nerve enough to draw it in vindication of my country's rights.

If I should receive it, unwarned by your judgment, I may yet live to prove, by my future, as well as by my past conduct, how I have been calumniated—and the justice of your sentence.

General Hall here closed his defence. He then offered to the court the following written observations.

Having now closed my final defence, I have only to add an objection, which I am compelled at this time to make, in anticipation of a privilege, which I understand the judge advocate requested, viz. that of summing up the evidence. As far as my research has extended, it is a privilege sometimes admitted by writers on martial law, but never exercised—one which has grown out of the reasoning of authors, rather than the admission of courts,—and in the compilation of military trials in England, a solitary instance is scarcely to be found of its being either claimed or exercised. The reason is evident—the judge advocate is a component part of the court—he officiates in the arrangement of the testimony, and as the law member of the court, acts equally when required in that capacity for the accused and the government. He opens

the cause—because having previously arranged and marshalled the testimony for trial, some development of the charges and evidence is necessary. He is consulted in all periods of the trial, and when their several duties are concluded, his functions are at an end. The characters of this court, precludes the necessity of comment, and it is to be presumed that this court, noting and examining the testimony of a cause and deciding on legal questions as they arise on the trial, can require the aid of professional ingenuity. That the daily investigation of these charges should be still incomplete without the comments of counsel on facts. This court differs very materially from other courts. It is selected from professional men, competent to decide on questions of science—and the facts, when submitted, give to the court alone the province of judging of their application—and the cases so often introduced, of the proceedings in the common law courts, are by no means parallel.—There juries decide on the law and the fact. Blended as they are, they require some exposition from the public prosecutor to men wanting his professional science, and of course his intelligence. The necessity of the rule sanctions its admission; but where that necessity does not exist, no principle that I yet know, can authorize its indulgence. In the present trial, evidence has been admitted of un-officer-like conduct, in matters of military skill—whether I as an officer was authorized in not attacking Malden? in this charge can it be supposed that the law member of the court would be consulted? Is a charge, exclusively governed by military rules, to require a comment from that part of the court placed here alone to facilitate the trial? The judgment of the court is formed on professional distinctions, which they, as military men, can alone know—and therefore neither require, nor ask the aid of professional talent and industry. The usage of our country, as far as this court would feel themselves authorized to admit, has discountenanced it. On the trial of General St. Clair, it was not permitted. On the trial of General Wilkinson, though expressly urged by the judge advocate Mr. Jones, it was denied. In both cases the judge advocate was permitted to open the charges—because it was necessary to give to the court possession of the facts—but there his duties end, and the functions of the court commence. This permission may be claimed as matter for indulgence, but certainly not of right—and here let me add, that however gratified I should be in giving to the judge advocate the opportunity his talents and industry so justly entitle him to. I cannot, consistent with military propriety, refrain from objecting to a mode of procedure novel and unauthorized.

The court having taken the same into consideration, decided that the judge advocate should be permitted to send up the testimony to the court.

Major John Anderson's deposition read.

The court then adjourned to meet on Wednesday next at ten o'clock, Wednesday morning March 23d, 1814.

The court met pursuant to adjournment.

Present.

Major General Dearborn.

Brigadier General Bloomfield.

Colonel Fenwick.

Little.

Bogardus.

Irwyn.

Lieutenant Colonel Dennis.

Hoare.

Conner.

Scott.

DeVie.

Stewart.

Livingston.

Forbes, supernumerary.

The judge advocate replied to General Hull's defence.

The court then adjourned to meet to-morrow morning at 10 o'clock.

Thursday morning, March 24, 1811.

Court met pursuant to adjournment.

Present all the members.

The judge advocate read the proceedings until 3 o'clock.

The court then adjourned to meet to-morrow morning at 10 o'clock.

Friday morning, March 25, 1811.

The court met pursuant to adjournment.

Present all the members.

Ordered that Lieut. Colonel Forbes, a supernumerary member, have leave to retire.

General Hull in his defence having made complaint on two subjects

- 1st. That the witnesses were examined in the presence of each other.
- 2d. That evidence was heard in support of charges not embraced in any specification.

The court deem it proper that the following entry be made on the minutes.

When the trial commenced it was suggested by a member of the court, that the witnesses ought not to be examined in the presence of each other; to which the president replied, that it was not necessary in his judgment to examine them apart from each other. The accused did not, either directly or indirectly, object to the witnesses remaining in court, or at any time request that the witnesses should be separately examined—nor was the opinion of the court in any way taken or required upon that subject.

The court have not given any weight to testimony objected to by the prisoner, as not applicable to any charges embraced in the specifications.

The decision of the court was then pronounced as follows—all the evidence being read (whether on the part of the prosecution or the defence) applicable to the first charge, and the specifications attached to that charge, and after due deliberation had thereon, the court express the following opinion:

The accused having in his final defence protested against the jurisdiction of the court to try the charge of treason, and the opinion of the court being that the objection would have been tenable if the same had been pleaded by the accused on his arraignment, and believing also that the court cannot acquire jurisdiction of the offence by the waiver or consent of the accused, they decline making any formal decision on that charge.

The evidence on the subject having however been publicly given—the court deem it proper, in justice to the accused to say, that they do not believe upon any thing that has appeared before them, that Brigadier General William Hull has committed treason against the United States.

On the second charge, and the specifications attached to that charge, (after hearing all the evidence, and defence, and after due deliberation thereon) the court find Brigadier General William Hull guilty of the first, second and fourth specifications under that charge—and also guilty of the third specification under that charge, except that part which charges the said Brigadier General William Hull with “forbidding the American artillery to fire on the enemy on their march towards said Fort Detroit.”

The court find the said Brigadier General William Hull guilty of the second charge.

On the third charge the court after having heard the evidence (as well as the defence) and after due deliberation, find the said Brigadier general William Hull guilty of neglect of duty and un-officer-like conduct, as charged in the first specification under this charge, in omitting with sufficient care and frequency to inspect, train, exercise, and order, and to cause to be trained, inspected, exercised and ordered the troops under his command, from the 6th day of July until the 17th day of August, 1812; and acquit him of the residue of the charge contained in that specification.

The court acquit the said Brigadier General William Hull of the second and third specifications of the same charge.

The court find the said Brigadier General William Hull guilty of the whole of the fourth specification of that charge, except that part which charges him with not seasonably repairing, fitting and transporting—or causing to be fitted, repaired and transported, the guns, and gun carriages which were necessary to the operations of the war in the said British province of Upper Canada.

The court find the said Brigadier General William Hull guilty of so much of the fifth specification to that charge as relates to neglect of

duty and an officer-like conduct, in suffering his communication with the River Raisin and the state of Ohio to be cut off—and sending Major Van Horn to attempt to open the same with an inadequate force; he, the said Brigadier General William Hull having reason to know or believe the same was insufficient—and the court acquit him of the residue of that specification.

The court find the said Brigadier General William Hull guilty of the first and seventh specifications of that charge.

The court find the same Brigadier General William Hull guilty of the third charge.

The court then adjourned to meet to-morrow morning at 10 o'clock. Saturday morning, March 26, 1814—the court met pursuant to adjournment.

Present all the members.

The court in consequence of their determination respecting the second and third charges, and the specifications under those charges, exhibited against the said Brigadier General William Hull—and after due consideration, do sentence him to be shot to death, two-thirds of the court concurring in the sentence.

The court in consideration of Brigadier General Hull's revolutionary services, and his advanced age, earnestly recommend him to the mercy of the President of the United States.

The court stand adjourned to meet on Monday morning next at 10 o'clock.

Monday morning, March 28, 1814—the court met pursuant to adjournment.

Present all the members.

The proceeding having been read once, approved and signed by the president—the court then adjourned sine die.

H. Dearborn, major general, president of the court.

M. Van Buren, special judge advocate.

Philip S. Parker, army judge advocate.

April 25, 1814—The sentence of the court is approved, and the execution of it remitted.

(Signed:) JAMES MADISON.

By directions of the court martial the president gave the following directions to General Hull.

Albany, March 26, 1814.

Sir—You will please to return to your usual place of residence in Massachusetts—and there continue until you shall receive orders from the president of the United States.

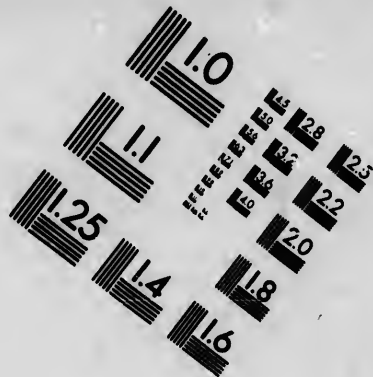
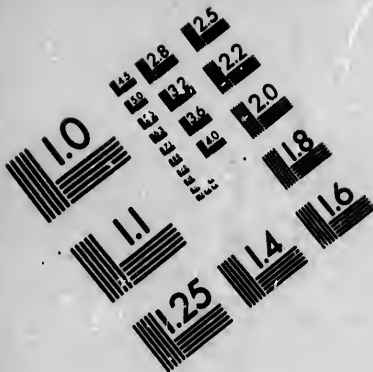
Your humble servant,

(Signed:) H. DEARBORN, major general.

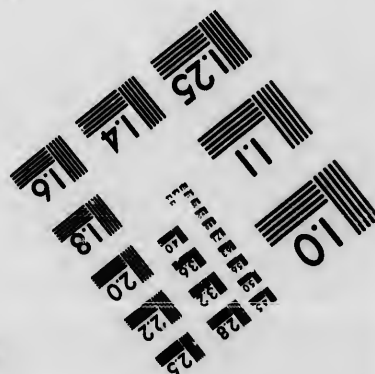
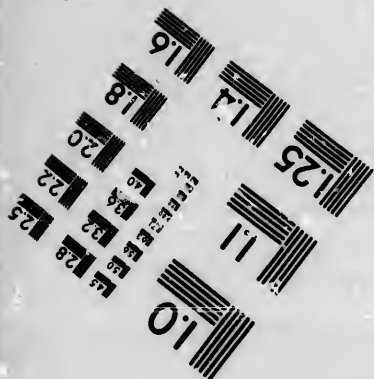
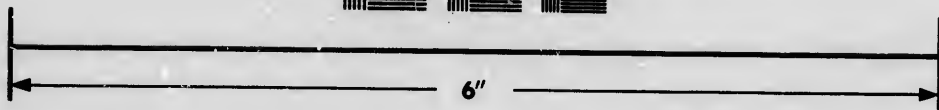
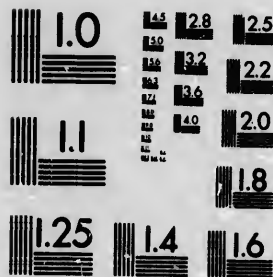
president of the court.

Brig. Gen. William Hull.





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APPENDIX

NO. 11

THE HONORABLE SECRETARY OF STATE

WASHINGTON, D. C., JANUARY 18, 1911

Dear Sir:—Having learned that in your communication to me from the British Legation in London, dated January 17, 1911, you had been requested to furnish me with a copy of the report of the Commission on the subject of the proposed extension of the Panama Canal, I have the honor to acknowledge the receipt of your letter of the 17th inst. and to inform you that the report of the Commission is being prepared and will be ready for transmission to you in due season. I will not, however, be able to forward it to you until after the 25th inst. as the Commission is still in session and is engaged in the consideration of the report of the Commission on the subject of the proposed extension of the Panama Canal. I am, Sir, very respectfully,
 Yours very truly,
 JOHN HAY

JOHN HAY

DEPARTMENT OF AGRICULTURE

Washington, D. C., January 18, 1911
 In answer to your letter of the 17th inst. regarding the proposed extension of the Panama Canal, I have the honor to acknowledge the receipt of your letter of the 17th inst. and to inform you that the report of the Commission is being prepared and will be ready for transmission to you in due season. I will not, however, be able to forward it to you until after the 25th inst. as the Commission is still in session and is engaged in the consideration of the report of the Commission on the subject of the proposed extension of the Panama Canal. I am, Sir, very respectfully,
 Yours very truly,
 JOHN HAY

B

APPENDIX.

NO. II.

MAJOR BARKER'S LETTER READ.

Read before the Senate, Feb. 11, 1813.

General Paul Shaw.

Mr. President.—Having learned that you were concerned in what Gen. Hill has been charged to do, in relation to the charges which are the subject of the resolutions which you are, as the President of the Senate, about to try, I take the liberty of expressing to you my sentiments on the subject, which are dictated by the sense of justice, and the respect for the talents and character of my friend, who has been so unfortunately connected with you. My first acquaintance with Gen. Hill was in the year 1794, when he was unfortunate in the issue that he had with the British, and he rendered to his country, during the revolution, a service which will be forgotten. He was then young, and his conduct was such as to give the estimation of his superiors, and the confidence of his countrymen, in his fidelity to his country. I was not acquainted with you at your time in detailing the circumstances of the capture of Burgoyne and the well known facts of the capture of the dead bodies of the slain, and the air which was breathed by the dying, Hill was ashamed. He never acknowledged his bravery. I was then in your brigade, Gen. Hill was a man whose welfare of his country was apparently as dear to him as his own. If he has now fallen, he has fallen bravely. It is a time so interesting, and in my opinion, the most interesting of a man's life, I shall be unhappy to learn that he has concluded his military career by finally acting the coward.

(Signed) JOHN BARKER.

DEPOSITION OF ADJUTANT GENERAL PAUL SHAW.

Read before the Senate, Feb. 11, 1813.

To the President and members of the Senate, I Paul Shaw, Adjutant General of the Army, do hereby depose and testify that

General Hill was not killed by the British on the 17th of September 1794, and that my knowledge of his death and conduct during the revolution

State and ...

Q. ... I ...
A. ...

Q. 6. Do you or do you not ...
A. ...

Q. 7. ...
A. ...

Q. 8. ...
A. ...

Q. 9. ...
A. ...

Q. 10. ...
A. ...

Q. 11. ...
A. ...

...although I have often seen him under the command of that
...of the army, in the month of August 1777, at
...with a company he then commanded, to oppose a party
...and York advancing upon the left bank of the river
...orders were executed with great promptitude and
...more than double his number, the enemy was repulsed
...and the left of the American line thus enabled to
...in safety to pass the Bronx.

With great respect I am, Sir, your servant,
I BROOKS
By the President of the court martial, Albany

Albany, 17th February 1814.

To the court martial appointed for the trial of General Hall

I say, on my sacred honor, that I was a captain in the post 1777, in
Colonel Vassar's regiment of the state of New York, that I served
with General Hall in the year 1777, in the expedition under General
Arnold, which relieved Fort Stanwix. That I likewise served with
General Hall in the campaign of 1780, and was with him in the battle
of Red Bank, when I was wounded and lost my arm; that there was no
officer of General Hall's rank that stood higher in my estimation, and as
far as I knew, in the estimation of the army; that he was considered as
a brave and excellent officer.

(Signed) JOSEPH MCGAHEN

A major in the New-York line in the year 1776

I say, that in August 1776, I was in the service of the late
General Mifflin, and was with him at the battle of the Clouds,
where I was wounded and lost my arm. I was then in the
service of the late General Mifflin, and was with him at the
battle of Red Bank, where I was wounded and lost my arm.
I was then in the service of the late General Mifflin, and was
with him at the battle of Red Bank, where I was wounded and
lost my arm. I was then in the service of the late General
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late General Mifflin, and was with him at the battle of Red
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service of the late General Mifflin, and was with him at the
battle of Red Bank, where I was wounded and lost my arm.

(Signed) SALMON HUBBELL

Bridgeport, January 20th, 1814.

Joseph Dicks, Justice of the Peace

COLL: JACOB KINGSBURY'S DEPOSITION

Question: Was you ever ordered by the committee of safety in
Washington in March 1814

Q. On your arrival at Washington, were you ordered to march
back to take the command of the troops destined for the
10. A. I was ordered to march back to Washington and to
Q. Did you know what number and what description of troops
destined was to consist of?
A. I was to have 300 regular troops and 1000 militia
my own recruitment.

Q. What were your instructions?
A. My orders were to cut a road to the River of the Masses, build a
stockade fort at that place, purchase it with one company, then cut a
road to Detroit and put that force in the best possible state of defence
and wait for further orders.

Q. Did you not expect that the object of that force was to protect
the northern frontier against the Indians in case of war?
A. I did not expect that.

Q. Did you estimate the force sufficient for offensive operations
against Upper Canada, in case of a war with Great Britain?
A. I did not.

Q. How long did you command at Detroit, and when did you leave
it?
A. I commanded at Detroit about six weeks, and then I left it
Q. During the time you commanded at Detroit, were there any
desertions of men and the best cattle taken from Ohio or that territory?
A. There were no desertions, and no cattle taken from Ohio or that territory.

Q. Was your command the same throughout the whole of the
A. I was.

Q. Had you any knowledge of my character and military conduct
during that period?
A. I had. General Hall was considered by all ranks in that army as
gallant and brave. I was in an expedition when he commanded against
the enemy at Morrisania, near New-York, which was a success and de-
struction of their warlike arms, and his conduct in the sub-
duction of them was that of a brave and intrepid soldier. In 1792, I was
in the light infantry under General Hull's command, then engaged near
King'sbridge, and remained with him until the British evacuated the
city, when he marched in his troops and took possession of the city.

(Signed.) JACOB KINGSBURY
Col. in Regt. Infantry and Insp. General.
Spent this 3d day of March, 1816, before me,
(Signed.) Absalom Townsend, Just. of the Peace.

COMMONWEALTH OF MASSACHUSETTS,
SUFFOLK SS.

Personally appeared before me, the undersigned Justice of the peace
in and for the said county, Charles Stewart, one of the Justices of the
peace of the U. S. who being sworn as the holy Evangelists of Almighty
God, Amen, depose and saith:
That he received an order from the Governor of the navy, dated the
18th of March, 1812, to repair to Washington, as it was contemplated by
the Government to that hour with an important command; that in com-
pliance with the said order he arrived at Washington in the beginning of

[Faded, illegible text]

with my best wishes for the success of the
Union and the preservation of the Republic.

Yours truly,
J. M. Smith

Washington, May 2, 1862.
Your letter of yesterday informing me of my ap-
pointment as Major in the 1st Regiment of the
Ohio Cavalry, and of my duty in connection with
the same, has just been received. I have the honor
to acknowledge the receipt of the same, and to
express my appreciation of the confidence reposed
in me by the War Department. I have the honor
to acknowledge the receipt of the same, and to
express my appreciation of the confidence reposed
in me by the War Department.

On the Ohio, opposite Marietta, 31 May, 1862 — }
6 o'clock in the morning. }

with all possible expedition to Cincinnati — was
the river from this place — I was
the volunteers raised at and in the vicinity
of this place of rendezvous — I have heard
of the success of the volunteers — I hope to meet them at Dayton
on Sunday in the 1st Regiment, at Pitts-
burgh, on Monday the 30th recruits as heard of
I have obtained the whole number of
recruits as follows:

and here even to my old revolutionary friends
m. Smith
Secretary, Department of War.

(2)
Head-Quarters, Detroit, July 7, 1812.

[The following text is extremely faint and illegible due to heavy ink bleed-through from the reverse side of the page.]

In your letter of the 18th June you direct me to wait for the security of the country and wait for further orders;—I regret that I have not a larger latitude. I am, very respectfully, &c.

WILLIAM HULL.

Honorable William Eustis,

The British have a large number of boats on the river in a few days. The boats will be sent directly opposite to this place; I have a number of boats in possession of the opposite bank. Every thing will be done that is possible to prevent the water and the savages; I do not think it will be equal to the reduction of Amherstburg; you therefore must not be too sanguine. I am, &c.

WILLIAM HULL.

Hon. William Eustis.

Detroit, July 10, 1812.

Sir—Mr. Beard, Augustus Porter's agent here, informs me that in consequence of the lake being closed against us, he cannot obtain the necessary supplies of provisions. I have, therefore, authorized Mr. John H. Post, of Cincinnati, (now here) to furnish two thousand bushels of flour and the same quantity of beef, at five per cent, on the amount of purchases and for the expenses of transportation; he will draw here on you for the amount necessary to transport the flour. The transportation must be necessary for the purpose. The army will be without provisions, unless you will be absolutely on the road to protect the provisions. The army will perish by hunger. I am, &c.

WILLIAM HULL.

Honorable W. Eustis.

B

1812
(11)
Savannah, U. C. August 20, 1812.

At the time when the army under my command is in the province of Upper Canada, the situation is very variable, and all the operations of this army have been suspended since they occurred which were matter of great importance. The unexpected surrender of Fort Mifflin and the early operations of the army at Niagara are the circumstances which I have every reason to expect in a very short time will be the subject of a body of Indians from the north, whose appearance will be attended with this war. They are under the command of the North and the Companies, and the interest of these companies depends on the communication of the Detroit river this summer. It is the opinion which they obtain their supplies, and there can be no doubt that they will be made against this army to open that communication. In the opinion of the officers and the most intelligent persons of the Indian Nation, that the British can engage any number of Indians they may have occasion for, and that (including the Indians of the W. Companies) two or three thousand will be brought to the river in a very short time. Despatches have been sent to the Major General, and several have returned with orders. With respect to the operations of the British army with 60 regulars and a piece of brass artillery, which was detached from Niagara, and by the last accounts had been at Detroit, about 120 miles from this place, they are endeavoring to obtain it, and it is expected that they would consist of 6 or 700; the object of this force is to operate on the army. Two days ago all the Indians were sent from this place with a small body of British troops to Brownstown and Mackinac, and made prisoners of the Wyandots at those places. There are some reasons to believe that it was by their own consent, notwithstanding the professions they had made. Under all these circumstances you will perceive that the situation of this army is critical. I am now preparing a work on this bank which may be defended by about 300 men. I have consulted with the principal officers and an attempt to storm the fort at Mifflin is thought inadvisable without artillery, to make a breach. The pickets are 10 feet high, and defended by bastions on which are mounted a great number of cannon.

I am preparing floating batteries to drive the Queen Charlotte from the mouth of the River Canada, and land them below that river; and it is my intention to march down with the army, and as soon as a breach can be made, attempt the place by storm. Circumstances, however, may render it necessary to re-cross the river with the main body of the army, to preserve the communication for the purpose of obtaining supplies from Ohio. I am constantly obliged to make a strong detachment to convey the provisions between the foot of the Rapids and Detroit. If nothing should be done at Niagara, and the force should come from the north and the east, as is almost certain, you must be sensible of the difficulties which will attend my situation. I can promise nothing but my best and most faithful exertions to promote the honor of the army, and the interest of my country. I am, very respectfully, &c.

(Signed) WILLIAM HULL

Hon. W. Rustic.

...will be treated and ...
...will be taken prisoner— instant
...of reason, duty, justice and har-
...ment of a force which respects no
...prevented by a severe and relent-
...not your courage and firmness— I
...tender your peace,
...liberty and security
...and interests, your peace and
...By the General

1111
Camp of the 1st US Cavalry Regiment of Infantry and Artillery
Headquarters, San Carlos, July 12, 1872
WILLIAM HULL

...to learn whether you ... private property
...to the ... of
...in particular

The bearer of this is Colonel Cass
...in the ...
...of the ...
...of the ...
...of the ...
...of the ...

the fact that I observed my officers and men to be perfectly satisfied with the result of the trial, and that they were determined to hold out against such a course. In this opinion I am supported by a conviction that it was necessary to secure that could prevent a general massacre. The fact that they were accordingly arrested.

"The enclosed papers exhibit copies of the correspondence between the officer commanding the British forces and myself, and of the articles of capitulation. The subject involved questions of a peculiar nature; and I hope, Sir, that my demands and protests will meet the approval of your Government. I cannot allow this opportunity to escape without expressing my obligations to Dr. Day for the service he rendered in conducting the correspondence.

"In consequence of this unfortunate affair, I beg leave, Sir, to demand that a supply may be ordered to be forwarded to all the ships concerned with the case. I do further request, that the hours may be specially directed to express their opinion on the merits of the case, and that the necessary amount to be sent to the ships may be ordered to be sent to the ships. I am, Sir, your obedient servant, P. HANKS, Lieutenant of Artillery, His Majesty's Gun Flank Company, and Adjutant of the 1st Battalion of the 4th Regiment of Foot Guards, in the West Indies.

"P. S. The following particulars relative to the British force were obtained after the capitulation, from a source that admits of no doubt: Regular troops 40 (including 4 officers), Carolina militia 600—Total 640.

SAVAGES: Sioux 24, Winnebago 40, Tallawain 30, Chippewas and Ottawas 210, Whites 200—Total 504.

"It may also be remarked, that one hundred and fifty Chippewas and Ottawas were taken prisoners after the capitulation. Heights above Milledgeville, Georgia, July 1812.

"CAPITULATION. I do hereby certify that the following articles were agreed upon between the British and American forces, on the 17th day of July, 1812, at the place above mentioned.

"1st. The British forces shall immediately be surrendered to the British forces.

"2d. The British forces shall march out with the honours of war, by down their arms, and become prisoners; and shall be sent to the U. States of America by his Britannic Majesty, not to serve this war until regularly exchanged; and for the due performance of this article, the officers pledge their word and honour.

"3d. All the merchant vessels in the harbour, with their cargoes, shall be in possession of their respective owners.

"4th. Private property shall be held sacred as far as it is in my power.

"5th. All the citizens of the U. States, who shall not take the oath of allegiance to his Britannic Majesty, shall depart with their property from the island in one month from the date hereof.

(Signed) CHARLES ROBERTS, Captain commanding his Britannic Majesty's forces.

(Signed) P. HANKS, Lieutenant commanding the United States forces.

July 13, 1912.

Dear Sir,

I have the honor to acknowledge the receipt of your letter of the 11th inst. in relation to the proposed armistice between the United States and the Government of Mexico.

I am authorized to inform you that the Government of Mexico has agreed to the terms of the proposed armistice, and that the same will be in effect from the 1st of August, 1912.

I am, Sir, very respectfully,
 Yours,
 J. M. [Name]

It is the desire of the Government of Mexico that the armistice should be observed in all its details, and that the moment the armistice is declared to enter into effect, the most scrupulous neutrality should be observed. General M. D. [Name] and Major [Name] are fully authorized to conclude any arrangements that may be necessary to prevent the unnecessary effusion of blood, and to secure the safety of the persons of the military and naval forces of both countries.

Very respectfully,
 J. M. [Name]
 Commanding at Fort Detroit.

General M. D. [Name] and Major [Name] are authorized to conclude any arrangements that may be necessary to prevent the unnecessary effusion of blood, and to secure the safety of the persons of the military and naval forces of both countries.

Very respectfully,
 J. M. [Name]
 Commanding at Fort Detroit.

Commanding at Fort Detroit.

His Excellency, Don [Name],
 Majesty's Legation, Mexico City, Mexico.

(over)

GENERAL ORDER

Fort Center, at Detroit, 10th August, 1912.

It is with regret that Brigadier General Hull announces to the public that he has been compelled from a sense of duty to give up the remaining articles of capitulation.

IN THE MATTER OF THE ESTATE OF JAMES M. SMITH

Decree of Distribution

James M. Smith, deceased, was a resident of the State of New York at the time of his death.

His will was admitted to probate in the County of New York on the 10th day of January, 1925.

The will bequeathed to the said James M. Smith, his wife, Mary M. Smith, the sum of \$10,000.

The said Mary M. Smith is now deceased and her estate is being administered by the executor named in her will.

The said executor has filed a petition for the appointment of a guardian of the property of the said Mary M. Smith.

The court has appointed the said James M. Smith, executor, as guardian of the property of the said Mary M. Smith.

The said James M. Smith, executor, has filed a petition for the appointment of a guardian of the person of the said Mary M. Smith.

The court has appointed the said James M. Smith, executor, as guardian of the person of the said Mary M. Smith.

The said James M. Smith, executor, has filed a petition for the appointment of a guardian of the estate of the said Mary M. Smith.

The court has appointed the said James M. Smith, executor, as guardian of the estate of the said Mary M. Smith.

The said James M. Smith, executor, has filed a petition for the appointment of a guardian of the person and estate of the said Mary M. Smith.

The court has appointed the said James M. Smith, executor, as guardian of the person and estate of the said Mary M. Smith.

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About the 10th of August, the enemy received a reinforcement of four hundred men. On the 11th, the commanding officers of three of the regiments of the Michigan militia were informed through a messenger that the general had stated that a letter from the same day, addressed to the Hon. Secy of War, which the following is an extract from: "The bearer will tell you. Believe it, however it may be talked of by the bearer will fill the vacancy?"

The doubtful fate of this letter rendered it necessary to use circumlocution in its details, and therefore these blanks were left. The word "vacancy" will fill the first, and "commanding general" the other. As an enemy was near us, and the superiority of our force was manifest, we could see no necessity for stipulating, for any propriety, in assuming to it. We therefore determined in the last report to incur the responsibility of direct to the general of his command. This plan was eventually prevented by one of the commanding officers of regiments being ordered from camp.

On the 11th, the 1st, 2nd, 3rd, and 4th regiments of the Michigan militia were ordered to throw up a position opposite to Detroit, and began their march without interruption and established a battery for two 10 pounders, and a 24 pounder. About sunset on the evening of the 11th, a detachment of 100 men from the regiments commanded by Gen. M'Arthur and myself was ordered to march to the river, mainly to correct the provisions, which at that time remained there protected by a party under the command of Gen. Beach.

On Sunday, the 11th, about 9 o'clock, a flag of truce arrived from Sandwich, bearing a summons from Gen. Beach, for the surrender of the town and the Detroit station, as could no longer restrain the fury of the savages. To this an immediate and spirited refusal was returned. About ten o'clock, the batteries began to play upon the town. The fire was returned and soon became a most interruption with little cessation. The shells were thrown in till eleven o'clock.

At 12 o'clock, the firing was re-commenced—about the same time the enemy's fire was suspended at the springwell, three miles below Detroit, protected by a line of armed vessels. Between 6 and 8 o'clock, the 24 pounder was ordered to load and immediately took up a position on the bank of the river.

The fourth regiment was stationed in the fort—the Ohio volunteers and a part of the Michigan militia, behind some pickets, in a situation in which the whole mass of the enemy would have been exposed. The residue of the Michigan militia were in the upper part of the town to resist the incursions of the savages. Two 24-pounders loaded with grape shot were posted upon a commanding eminence, ready to sweep the advancing column. In this situation, the superiority of our position was apparent, and our troops in the eager expectation of victory, awaited the approach of the enemy. Not a sigh of discontent broke upon the ear; not a look of cowardice met the eye. Every man exposed a proud day for his country, and each was anxious that his individual exertion should contribute to the general result.

When the head of their column arrived within about five hundred yards of our line, orders were received from General Hull for the militia to retreat to the fort, and the twenty-four pounders not to open upon the enemy. One universal burst of indignation was apparent upon the

receipt of this order. These were
 self of a disposition to
 and propriety of proceeding
 could fully man, and into which the
 falling. The Fort was in
 to stack their arms, and
 ing. Shortly after a white
 British officer rode up to
 between the commanding
 submitted to you. In
 counsel from his own
 one anticipated a surrender, till
 the women were indignant at
 can character, and all felt as
 in his hands the reins of

Our morning report had that
 sent in for duty 1080. Will
 ded the and
 about half on Saturday evening
 visions received orders from
 ction as possible. About 10
 sight of Detroit. Had a
 they would have advanced
 situation, in which this detachment
 accident, was the best for
 treat that could have been
 tween two fires and
 that very few would have

I have been informed by Col. Rindley
 quarter-master general, the day after
 force of every description, white
 twenty nine platoons, twelve in a
 Many of these were evidently
 tis increased their white force to
 number of their Indians, could not
 provisions, not many were visible.
 this force and fort it was a
 no material advantage to the enemy.

In endeavouring to appreciate the motives and to investigate the
 causes which led to an event so unexpected and dishonourable, it is
 impossible to find any solution in the relative strength of the contending
 parties, or in the measures of resistance in our power. That we were
 far superior to the enemy; that upon any ordinary principles of calcu-
 lation we would have defeated them; the wounded and indignant feel-
 ings of every man there will testify.

A few days before the surrender, I was informed by Gen. Hull we
 had 400 mounds of 24 pound shot fixed and about 100,000 cartridges
 made. We surrendered with the fort 50 barrels of powder and 1500
 stand of arms.

The state of our provisions has not been generally understood. On
 the day of our surrender we had 15 days of provision of every kind on hand.
 Of course there was plenty in the country, and arrangements had been
 made for purchasing and grinding the flour. It was calculated we could
 readily procure three months' provisions, independent of 400 barrels
 of flour, 1300 head of cattle which had been forwarded from the state of

