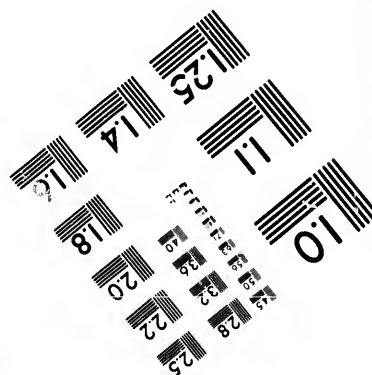
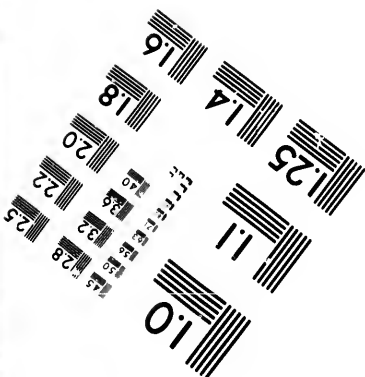
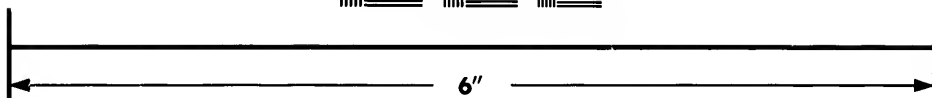
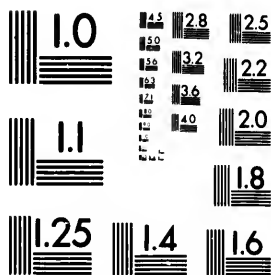


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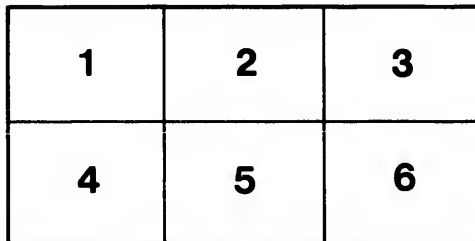
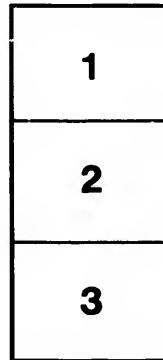
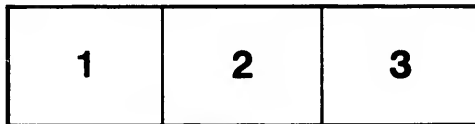
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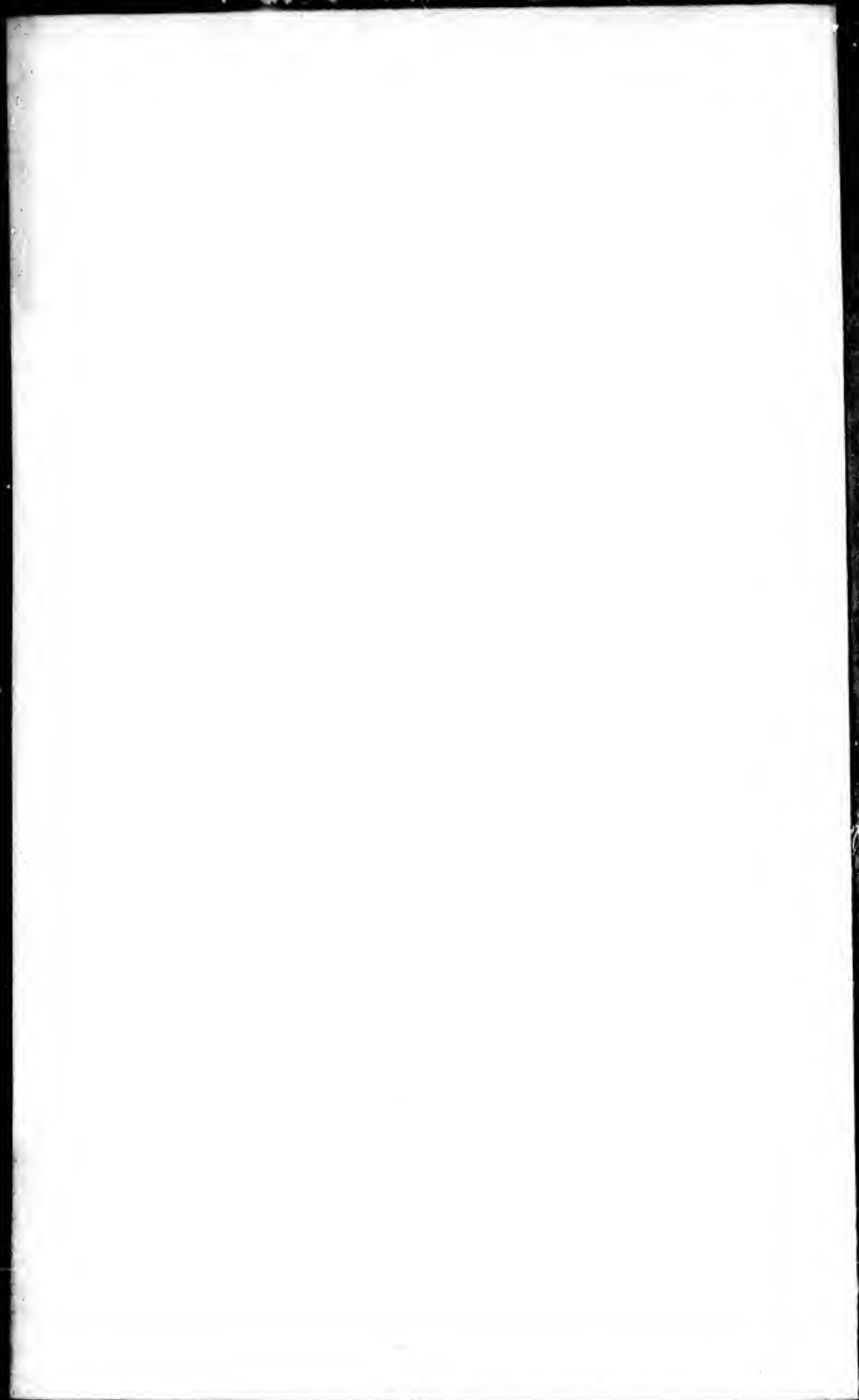
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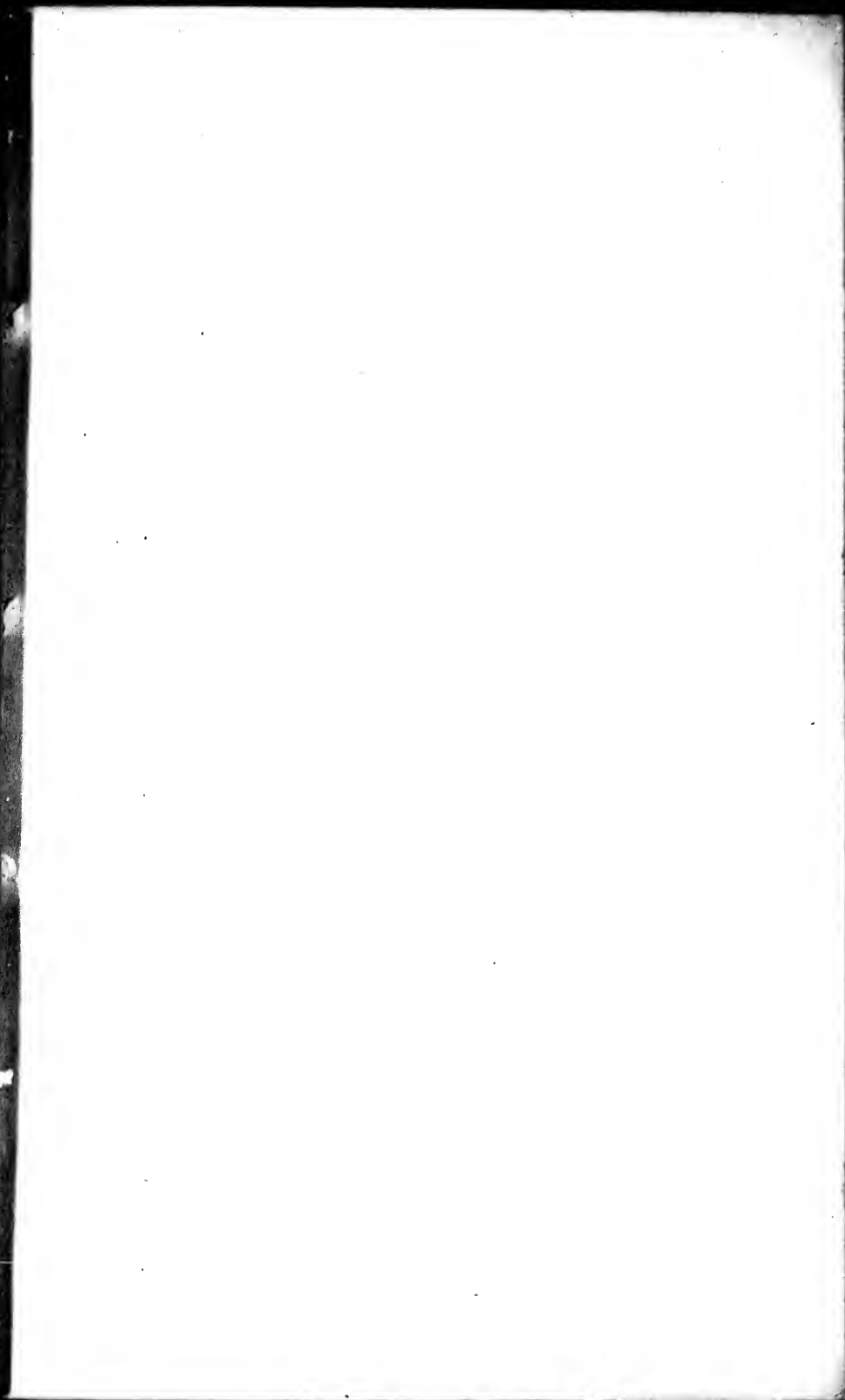
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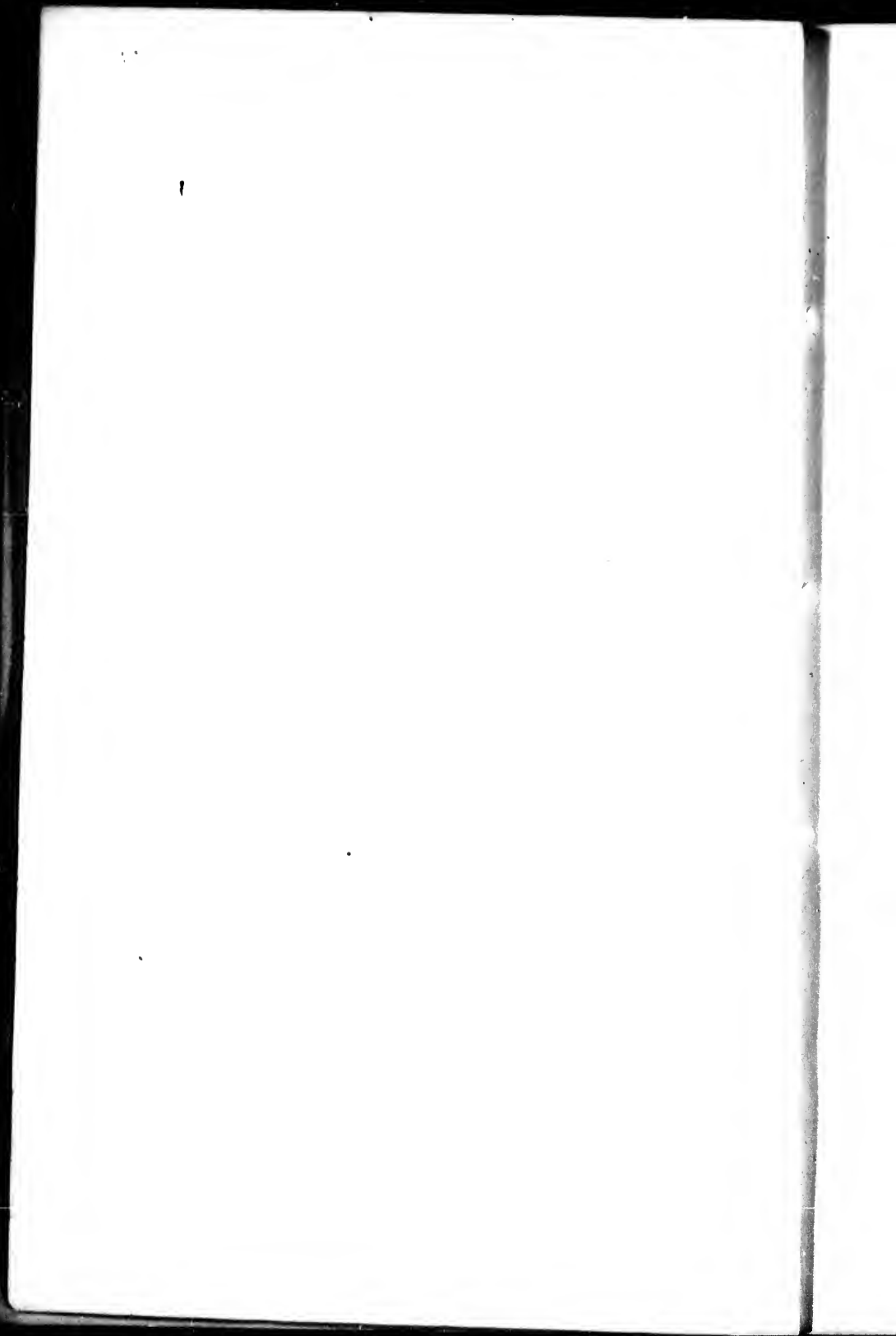
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DEFENCE

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P94

OF

MAJOR GENERAL PROCTOR,

TRIED AT MONTREAL

BY A

GENERAL COURT MARTIAL,

UPON CHARGES

AFFECTING HIS CHARACTER AS A SOLDIER,

&c. &c. &c.

Montreal :

PRINTED BY JOHN LOVELL, ST. NICHOLAS STREET.

1842.

Handwritten text, possibly a signature or date, located in the lower center of the page.

C H A R G E S

EXHIBITED AGAINST

MAJOR GENERAL HENRY PROCTOR,

LIEUT. COL. OF THE 41ST REGIMENT OF FOOT,

VIZ :

FIRST CHARGE.

THAT the said Major General Proctor, being intrusted with the Right Division of the Army serving in the Canadas, and the retreat of the said Division from the western parts of Upper Canada having become unavoidable, from the loss of the Fleet on Lake Erie, on the 10th September, 1813, did not immediately after the loss of the said Fleet was known by him, make the military arrangements best calculated for promptly effecting such retreat, and unnecessarily delayed to commence the same until the evening of the 27th of the said month, on which day the enemy had landed in considerable force within a short distance of Sandwich, the Head Quarters of the said Division;—such conduct on the part of the said Major General Proctor endangering the safety of the troops under his command, by exposing them to be attacked by a force far superior to them, being contrary to his duty as an officer, prejudicial to good order and military discipline, and contrary to the Articles of War.

23187

SECOND CHARGE.

That the said Major General Proctor, after commencing the retreat of the said Division, on the said 27th September, although he had reason to believe that the enemy would immediately follow it, with very superior numbers, and endeavour to harrass and impede its march, did not use due expedition, or take the proper measures for conducting the said retreat, having encumbered the said Division with large quantities of useless baggage, having unnecessarily halted the troops for several whole days, and having omitted to destroy the bridges over which the enemy would be obliged to pass, thereby affording them the opportunity to come up with the said Division;—such conduct betraying great professional incapacity on the part of the said Major General Proctor, being contrary to his duty as an officer, prejudicial to good order and military discipline, and contrary to the Articles of War.

THIRD CHARGE.

That the said Major General Proctor did not take the necessary measures for affording security to the boats, waggons, and carts, laden with the ammunition, stores, and provisions, required for the troops on their retreat, and allowed the said boats, waggons, and carts, on the 4th and 5th of October, 1813, to remain in the rear of the said Division, without a sufficient force to protect them, whereby the whole, or the greater part of the said ammunition, stores, and provisions, either fell into the enemy's hands, or were destroyed to prevent their capture,—and the troops were without provisions for a whole day, previous to their being at-

tacked on the said 5th October ;—such conduct on the part of the said Major General Proctor being contrary to his duty as an officer, prejudicial to good order and military discipline, and contrary to the Articles of War.

FOURTH CHARGE.

That the said Major General Proctor, having assured the Indian Chiefs in council, at Amherstburgh, as an inducement to them and their warriors to accompany the said Division in its retreat, that on their arrival at Chatham they should find the forks of the Thames fortified, did nevertheless neglect to fortify the same, or to take up a position either there or at Caldwell's Mill Dam, both of which were positions extremely favourable for retarding the advance of the enemy ; that he also neglected to occupy the heights above the Moravian village, although he had previously removed his ordnance, with the exception of one six-pounder to that position ; whereby, throwing up works, he might have awaited the attack of the enemy, and engaged them to great advantage, and that after the intelligence had reached him of the approach of the enemy on the morning of the said 5th of October, he halted the said Division, notwithstanding it was within two miles of the said village, and formed it in a situation highly unfavourable for receiving the attack which afterwards took place ;—such conduct manifesting great professional incapacity, on the part of the said Major General Proctor, being contrary to his duty as an officer, prejudicial to good order and military discipline, and contrary to the Articles of War.

FIFTH CHARGE.

That the said Major General Proctor, did not, either prior to or subsequent to the attack by the

enemy on the said Division, on the said 5th of October, make the military dispositions best adapted to meet or to resist the said attack, and that, during the action and after the troops had given way, he did not make any effectual attempt, in his own person or otherwise, to rally or encourage them, or to co-operate with and support the Indians who were engaged with the enemy on the right, the said Major General Proctor having quitted the field soon after the action commenced ;—such conduct betraying great professional incapacity, tending to the defeat and dishonour of His Majesty's Arms, to the sacrifice of the division of the Army committed to his charge, being in violation of his duty and unbecoming and disgraceful to his character as an officer, prejudicial to good order and military discipline, and contrary to the Articles of War.

(Signed) EDWARD BAYNES,
 ADJT. GENERAL,
North America.

(Signed) E. B. BRENTON,
 DEPY. JUDGE ADVOCATE,
B. N. America. }

THE DEFENCE.

Mr. President and Gentlemen of this Honourable Court :

The moment which I have so long and so anxiously looked for, is at last arrived. An opportunity is now afforded me of vindicating myself from the secret aspersions and open attacks to which my character has been exposed.

To the imputations thrown upon me, supported as they appeared to be by high official authority, I have been hitherto silent; no other direct means of obtaining redress existed, except those which I have adopted.

I did not—I could not, even for the purpose of removing error,—descend to any of the means which are sometimes used, for biassing public opinion.

From my friends, from those whose good opinion was most dear to me, I asked only a suspension of their judgment until I could obtain a trial. The torrent was left to expend itself. I relied upon the justice of my Government. I knew that the birth-right of the meanest of my fellow-subjects would not be denied to me. I knew that an honourable and impartial tribunal would be afforded me, who would hear, and weigh, and examine, before they determined,—who would not dip their hands in innocent blood, and offer me up as a propitiatory sacrifice at the altar of popular clamour.

In this reliance upon the justice of my Government, I have not been mistaken.

His Royal Highness the Prince Regent has been graciously pleased to listen to my prayer for a strict investigation of my conduct. Distance and peculiar circumstances, not now necessary to enter upon,

have produced delays and obstacles, which are, however, at last happily surmounted.

The day has come, which, in prospect, has cheered and supported me, through the gloom and darkness of the last twelve months.

You, gentlemen, have in your hands the honour of an officer, who has served with unimpeached character, for more than two and thirty years.

The patience and attention with which the investigation has been hitherto conducted, afford the surest pledges, if any were wanting, that you will listen with attention to what I have to offer in answer to the matter contained in the charges.

However anxious I may be to take up as little of the time of the Court as possible, the charges embrace views and circumstances of so large an extent that the bare statement of them would occupy no inconsiderable time.

If I understand the first charge, explained as it is by the opening address of the Judge Advocate, and the general bearing of the questions put by the prosecutor, (for, from its extreme vagueness, it requires these explanations,) I am accused in it of a dereliction of duty, in not having, immediately after the loss of the fleet was known to me, taken the necessary measures for promptly effecting the retreat of the Division under my command, to Delaware, or to some other point nearer the centre Division, where I might have been in communication with that Division, and have afforded to it a seasonable relief; and of unnecessarily delaying the said retreat to the twenty-seventh of September, on which day the enemy had landed in considerable force, within a short distance of the Head Quarters of the Division, thereby endangering the safety of the Troops under

my command, by exposing them to be attacked by a force far superior to them.

To this charge my answer is contained in one sentence. My determination was to retreat to the Thames, and no farther. It is obvious, that the line of conduct which would be expedient and proper, if my intention had been to abandon the district entrusted to my command, would be most unwise; my intention being to remain in it. This, then, is the standard by which my conduct is to be measured; and the main question to which the attention of the Court will again and again be called, in the consideration of this and the succeeding charges, here more immediately arises. In adopting this resolution, was I determined by no adequate reasons? Did I manifest gross ignorance or culpable inattention? On the other hand, was it not under the trying and difficult circumstances in which I was placed, the only resolution which was at once consistent with honour and policy?

The representations of Commodore Barclay to Sir James, yea and of myself to his Excellency the Commander of the Forces, relative to the want of seamen for the service of Lake Erie, had been equally unavailing. And, notwithstanding the deficiency of seamen on board our Fleet, such was the want of provisions and the necessity of obtaining a supply of water, that Commodore Barclay, with my entire concurrence, determined to attempt to open the communication to Long Pointe—he receiving from me every assistance in my power.

The fort of Amherst was deprived of its artillery to supply the Fleet with guns, and one hundred and fifty soldiers were put on board the Fleet to act as seamen. I need not recal to the recollection of the Court the result of the engagement which after-

wards took place, when the smallness of the number of our seamen deprived Commodore Barclay of the just reward of his skill and courage. A retreat it is admitted by all, became then inevitable. But was the retreat to be made to the Thames or to Delaware, and the centre Division ?

I entreat the attention of the Court to the reasons which determined me to retreat to the Thames, and there to make a stand, and to the measures which I adopted in consequence. When the intelligence of the loss of the Fleet was received, there were at least from two to three thousand Indian warriors within the district which I commanded, having with them their wives and families. The faith of the Government had been pledged to them, and the abandonment of the district would have been considered by them as a forfeiture of that pledge. It was seriously to be apprehended that the adoption of this measure would have rendered them our most inveterate enemies. The consequence of their hostility, not only to the small Division under my command, but also to the peaceable inhabitants, may be easily conceived. I directed a Council of the Indian Chiefs to be convened, and the contumelious speech of the Chief Tecumseh, in answer to a proposal made through Colonel Elliot, superintendent of the Indian Department, to fall back upon the Thames, strongly exhibits their feelings. This Council was held on the fifteenth of September, and an answer was promised on the eighteenth.

Colonel Elliot, and the other individuals of the Department, were directed, in the meantime, to use their influence with Tecumseh, and the other Chiefs.

On my arrival at Amherstburgh, I found Colonel Elliot alarmed beyond measure, having wholly failed

in his endeavours to convince or persuade the Chiefs. He told me to prepare myself for consequences the most unpleasant, and that on my expressing my determination to retreat, the Great Wampum Belt, in the centre of which was the figure of a heart, and at each end that of a hand, would be produced in the Council, and, in our presence, cut in two, figuratively representing our eternal separation. I then resolved myself to state to Tecumseh the reasons which had determined me. In the presence of Lieutenant Colonels Warburton, Elliot, and my own Staff, and several others, with the aid of a map, I so thoroughly convinced him of the expediency of the measure proposed, and of my determination not to desert the Indian body, that, when the Council had assembled in the course of two hours, he had brought the greater portion of the chiefs and nations into my proposal, and effectually prevented any opposition of moment. If I had attempted to retreat beyond the Thames, the great wampum belt would have been cut. The British influence with the natives would have been for ever extinguished, through a large portion of the continent. The individuals by whom that influence is supported and kept up, would have been destroyed, and our most formidable enemy would have been those who, but the day before, were our friends. This is the first reason which induced me to retreat beyond the Thames.

A second reason, and almost equally cogent, was, that if I could succeed in maintaining a position upon the Thames, I should be enabled to preserve the naval and military stores, and thereby facilitate the recovery of a naval ascendancy on Lake Erie. As they could be conveyed in vessels and boats to a depot upon the Thames, no time was lost, and in the

event of our being obliged to retire farther, they might be destroyed.

The prosecution reprehends my conduct in this particular, as if the abandonment and destruction of stores was an essential part of a retreat, and not acts justified only by imperious necessity.

A third reason was, that, retreating to the Thames, the Division had in its rear the rich and fertile country around Long and Turkey Points, to furnish it with provisions, and the enemy were prevented from obtaining from that country supplies for their army and garrisons.

Let one rapid glance be cast upon the other side of the picture.

If I had attempted to retreat to the Centre Division, not only would the Indian tribes have been rendered hostile to us,—not only would I have sacrificed an immense territory, and all its military and naval stores, without an effort,—but, in all probability, I should have brought upon the Centre Division the army by which I was attacked ; and it will be recollected, that in the language of an official communication of the 19th September, 1813,—“ That army was placed in a situation very critical, and one novel in the system of war, that of investing a force vastly superior in numbers within a strongly entrenched position.”

But to close this part of the subject with a fact which, after all the blame which it has been attempted to fix upon me for not retreating from the western parts of the Province, will be heard with surprise. I communicated to his Excellency the Commander of the Forces my determination to retreat to the Thames, and there to make a stand, and was answered by his Excellency in his despatch of the 6th of October, 1813, in these words : “ I en-

tirely approve of your determination consequent upon this disastrous event, (the loss of the Fleet on Lake Erie,) of your making a stand upon the Thames, and have the fullest reliance on the zeal and ability you have hitherto manifested, to conduct your retreat, so as to afford the enemy no decided advantage over you. I recommend to you to persevere in the conduct you are observing of conciliating the Indians by every means in your power." My determination then to retreat to the Thames, and there to make a stand, was dictated by honour and policy, enforced by necessity, and approved of by his Excellency the Commander of the Forces.

What were the arrangements made by me in consequence ?

One of the first objects was to secure the assistance of the Indian body ; they were naturally suspicious of any retrograde movements, and the influence of the Indian Department had been greatly lessened with them in consequence of the small supply of presents which had been afforded.

I have already detailed the difficulties which I had to encounter before this object was attained.

To have dismantled the fort of Amherst, or to have withdrawn the troops from that fort, without the concurrence of the Indians, would have produced their secession, perhaps hostility.

The sick, together with the women and children belonging to the Division, were sent to the Moravian Town.

The naval and military stores were sent by water, in vessels and boats, to the Thames.

Orders were given to the officers of the Artillery and Quarter Master General's Department, to provide such means of land carriage as they in their discretion might think necessary, and funds were

provided, depots with ovens were formed at proper distances. Instructions were given to the Commissariat for provisioning the troops. I had even written to Colonel Talbot, at Long Point, commanding the militia in that District, to send to the Thames whatever articles of food there might be within his reach, and to have the roads through the wilderness as far as possible repaired, to facilitate the conveyance of them. Colonel Baby, of the Militia Staff, was directed to have the bridges repaired between Sandwich and the Thames, for the passage of the troops upon the retreat. The fort of Amherst was dismantled, and its garrison withdrawn; Dragoons were stationed between Sandwich, Amherstburgh, and below this last place, to give the earliest intelligence of the appearance of the enemy and of their landing, as it was inexpedient to let the enemy know, as long as it could be avoided, our intention to retreat, and as the garrison at Detroit could, at the shortest notice, be conveyed to Sandwich, the abandonment of that fort was delayed to the last moment, and on the 27th orders were given to Major Muir, commanding there, to destroy the public buildings and cross to our side.

Were not these the necessary arrangements which the circumstances dictated.

And what were the arrangements best calculated for promptly effecting the retreat which I omitted to make?

I ought to have found an answer to this question in the charge itself, otherwise I have not a specification of the particular offence of which I am accused, and against which I am called upon to defend myself, a specification which the first principles of natural justice, recognized in all countries require. For no strength can entirely protect from a stroke aimed in the dark.

But I am charged with having unnecessarily delayed to commence the retreat until the evening of the 27th of September. The main body of the Indians arrived at the Thames only on the evening of the 30th. If I had commenced the retreat earlier, the naval and military stores could not have been conveyed to the Thames, but must have been destroyed at Amherstburgh. Besides there was no reason to apprehend a speedy attack of the enemy. It was not to be thought that the loss of the squadron could affect me so immediately as to render a precipitate retrograde movement necessary.

It was thought that after an action of an hour and a half, the enemy's vessels must have sustained so much damage as not to be in a situation to undertake any thing farther for some time.

This last view is fully disclosed in a despatch from Lieutenant Colonel Harvey, Deputy Assistant Adjutant General with the Centre Division, to me, dated the 17th September, 1813.

The retreat could not then have been commenced before the 27th September, 1813, without making sacrifices of the greatest magnitude; but I should not have been justified in commencing my retreat before the enemy landed.

It was by no means certain that the enemy would land on the western territory.

Serious apprehensions were entertained that the enemy would land at Long Point, get in rear of the Centre Division, and take possession of the stores at Burlington. The only obstacle to their so doing was that their own western frontier would be exposed to the incursions of the Indians and to the attack of the troops of the Right Division. This view is in like manner fully stated in another letter from Lieutenant Colonel Harvey, dated 6th September,

1813. Retreating with the Right Division and breaking the Indian Alliance, this obstacle would have been removed.

Is it not then plain, that I stand accused for not doing that, which, if I had done, my life would have been too cheap a forfeit to my country?

The charge concludes with stating that the conduct animadverted upon in it, endangered the safety of the troops under my command, by exposing them to be attacked by a force far superior to them. At no time during the retreat had I reason to suppose that the number of the enemy was greater than three thousand men. The Dragoon officer stationed below Amherstburgh reported that number, and so low down as the 5th October, Major Chambers reported the same number.

The Indian body, it has been already stated, amounted from two to three thousand warriors. My regular troops were the same of which, in the beginning of the year, a portion had advanced into the enemy's country, beaten a division of their army, and taken twice their own number in prisoners. The objects to contend for were of the highest importance.

Were all these considerations which did not fall within the province of arithmetic, to be excluded?

Was the honour of the Army,—the faith pledged to the Indians,—the sacrifice of an immense territory,—of an inland sea,—the relative operations of two divisions upon so extensive a line,—to be determined by the numeration table?

It will not be necessary for me to occupy so much of the time of the Court with the remaining four charges.

The second, third, and fourth charges are so intimately connected, that to consider them sepa-

rately would produce repetitions and distract the view.

I am accused in them, first, of having encumbered the Division with large quantities of useless baggage; secondly, of having unnecessarily halted the troops for several whole days; thirdly, of having omitted to destroy the bridges over which the enemy would be obliged to pass; fourthly, of not having taken the necessary measures for affording security to the boats, waggons, and carts laden with the ammunition, stores, and provisions required for the troops on their retreat, and allowing the said boats, waggons, and carts, on the fourth and fifth of October, 1813, to remain in the rear of the said Division, whereby the whole, or greater part of the said stores, &c. fell into the enemy's hands, or were destroyed, and the troops were without provisions for a whole day, previous to their being attacked on the said fifth of October; fifthly, of having assured the Indian Chiefs that on their arrival at Chatham they would find the forks of the Thames fortified, and of having neglected to fortify them; sixthly, of having neglected to occupy the heights above the Moravian Town, where it is said the enemy might have been engaged to great advantage, and of having formed the Division in a situation highly unfavourable to receive the attack which afterwards took place.

It would be thought by a stranger to these transactions, perusing the charges and giving credit to them, that my conduct had been marked by the utmost remissness and inattention, and particularly that I had bestowed no care upon, and made no exertions to obtain information respecting the positions which the Division was to occupy.

A distinct answer to these several grounds of charge, will be found in a plain narration of the circumstances attending the retreat.

My determination originally was to make a stand at the Forks of the Thames, at Chatham. The favourable opinion which I entertained of this position, I was the more confirmed in by knowing that General Simcoe, who had, during his government of the Upper Province, examined the country with the eye of an experienced and able General, was so much struck with the importance of this point, that he had, even in those times of peace, erected a block house, the ruins of which still remain.

It will be recollected, that, before leaving Sandwich, I communicated to the only officer of Engineers belonging to the Division, my intention to throw up works upon the Thames. The illness of that officer deprived me of his services till the 2d October, when I directed him to examine, with a view of defence, the ground at the forks of Chatham. On his return he represented it to me to be still less capable of being immediately made tenable than Dover, and spoke of the difficulties and time requisite to construct huts, &c. The state of the troops and the weather rendering it essential that they should, as far as possible, be under cover, I determined to occupy Dover, and directed, most positively, that it should immediately be put into the best state of defence; and in aid thereof, I appointed Captain Crowthers, 41st Regiment, of whose zeal and activity I was well aware, Assistant Engineer. I was the more confident that our troops could not be driven from Dover by the enemy, as the houses might have been occupied, and I had myself, at the river Raisin, witnessed the effect of the resistance of a few resolute men, similarly though not advantageously posted. To the enquiries which I had made, respecting the Thames, to the officers, generally of the right division, before leaving Sandwich, I had been answered, that the Thames afforded no

position ; but besides the knowledge which I had of the position at the Forks, Colonel Talbot had informed me, by letter, that the Moravian Town possessed great advantages, no intelligence being received of the advance of the enemy, from the Dragoons detached in the rear of the retreating division, to watch their approach, I determined myself to examine the Moravian village, and the adjoining grounds, placing Dragoons along the line, which I had to pass, that I might receive the earliest information of my presence being required. I received an express on the road, informing me of the appearance of the enemy's vessels on Lake Sinclair, I immediately returned, and on reconnoitring, ascertained the alarm to be unfounded—that the Troops had been removed from Trudel's to Dover—that no rear guard had been left, and that no steps had been taken to destroy the bridges. I immediately sent my Brigade Major to gain all the information he possibly could respecting the enemy, and to break up the bridges. On his return, at ten o'clock, P.M. he reported that only one large vessel was in sight, at a considerable distance,—that no boats were in sight, nor had any entered the Thames,—that he had, with the assistance of three inhabitants, broken up one of the bridges, and had posted Lieutenant Holmes with a party of Dragoons to patrol to the bridge and along the banks of the river, having previously ordered them down for that purpose. On the morning of the second, accompanied by my Brigade Major, I rode about six miles below the post which the Division had precipitately retreated from, the day before, towards the entrance of the Thames. into the lake, on which we could see only one large vessel, and that a great distance ; from this and from reports, I conceived that vessel to be looking out for

one of our vessels, the *Nancy*, which was expected from Michilimackinac. Orders were given for a boat to be sent to the bridge that had been broken down, for the purpose of crossing any Indians that might have remained, and that Lieutenant Holmes should proceed with a party to destroy the other bridge at day-light the next morning. On the third of October, after having been informed by Captain Dixon that my orders were in a train of execution, and having no immediate expectation of the approach of the enemy, I again attempted to see the Moravian village, accompanied by Captain Dixon and my Aid-de-Camp, and in this attempt was more successful. We arrived in the evening of the same day. I immediately examined, with Captain Dixon, the ground there; and after the examination of the ground, it being too dark to attempt to return through bad roads that night, it was determined that we should leave the Moravian village as soon as it was sufficiently light in the morning of the fourth. Let my surprise be judged of, on the arrival of an express before day, on the morning of the fourth, from the Officer in the immediate command of the Troops, informing me that they had been withdrawn from Dover. This was the third movement of the Troops unsanctioned by me; the first from La Vallée, which had its effects upon the minds of the Indians, and might have been attended with the most serious consequences at that critical moment; the second from Trudels, an advantageous post for resisting the advance of the enemy, independently of the impropriety of not waiting for the Indians; and this last from Dover, where our force would have been entire—where the confidence and aid of the Indians would have been undiminished, and on a ground well calculated for their mode of warfare.

It is to this unauthorised measure that are to be attributed many of our subsequent disasters, it rendered absolutely necessary the destruction of the vessels and stores which had been brought with so much trouble and exertion from Amherstburg, to prevent their falling into the hands of the enemy. But for it, we should not have suffered the baneful effects which arose from having, after hours of inactivity, retired from a station even before the enemy had advanced, though ordered to fortify it for defence. The loss of the boats and the men in them could not have been sustained. No alternative was left to me but to adopt those dispositions which so new and unexpected a circumstance called for. In order to prevent the advance of the enemy's gun boats, and to impede his approach, I directed Captain Hall, late of the Provincial Marine, to warp two vessels down to a proper part of the river, to scuttle and sink them across it, and burn them to the water's edge. Captain Hall having only left directions for my orders being carried into effect, it was done voluntarily by the Brigade Major and Captain Crowther. The Deputy Assistant Quarter Master General had directions to destroy every thing that could not be brought away, and which I believe was completely done. The boats I had no reason to believe to be in danger, nor, in fact, could they have been lost, if proper attention had been paid to them by those whose duty it was. The retreat from Dover being unauthorised by me, can it be said that I shall be answerable for the accidents to which its precipitation may have given occasion? And if this retreat had not been made, could the boats have been lost? But setting this consideration aside, the boats containing ammunition and stores were not captured till the morning of the fifth of October, at about ten o'clock, A.M. The officer

immediately responsible for them was the Deputy Assistant Quarter Master General, who having repeatedly passed on the communication, must have been thoroughly acquainted with the navigation, and might be presumed to be attending to so essential and peculiar a part of his duty. They left Bowles' on the afternoon of the fourth. In the evening of that day they appear to have been within five miles of Therman's, where the Troops halted, and the Deputy Assistant Quarter Master General states that he there reported the danger of the boats to the officer in the immediate command of the Troops. The danger of the boats was again communicated to the Deputy Assistant Quarter Master General, and to the officer in the command, on the evening of the fourth, by Sergeant Grant. Instead of instantly affording assistance, the sergeant who came to seek aid was obliged to come to me, four miles, on foot, (although there was Cavalry with the Division,) and when my orders were communicated to the officer in the immediate command of the Troops, about eight in the morning, my Brigade Major was told that the boats were already taken, and that he need not give himself any trouble about them, although in fact they were not then captured. The information which I had acquired of the situation of the Moravian village and the adjoining country, became now highly valuable. I selected a position which, taking into consideration my own force and that of the enemy, seemed to me to unite the greatest number of advantages. The enemy was strong in mounted men; a position in a wood seemed to afford a sufficient protection for them; their numerical superiority was considerable; it was an object to confine them to a front not exceeding that which our force might offer. The position united these with several other great advantages.

Our right flank was protected by a morass, and a thick wood, which skirted the left flank of the enemy. Our left rested on a river. To support the left flank, a gun was placed on the road running near the river. The Indians were to perform a service which in ground like this they were admirably fitted for, to turn the left flank, and get in rear of the enemy. The troops were disposed in extended order, as used in woods in the last American war, in which I commenced my service. Their fire was thus not lost; they were not unnecessarily exposed to the enemy, and they had the benefit of the same protection of which the enemy availed themselves. A reserve was formed—sharp-shooters and a small force of Dragoons were ordered to protect the gun; the remainder of the Dragoons were posted at a short distance in the rear of the reserve. Guns, with the officer of the Artillery, were posted upon the heights in our rear, to protect a ford, by which alone we might have been turned upon the left and to support our retreat. This position was chosen in preference to that to the eastward of the Moravian Town, for several very decisive reasons. We could not then have confined the enemy to the small front which our numbers would have permitted us to offer. They might have turned our right flank, the ground did not possess the advantages which the position taken up by me possessed, for our strongest arm, the Indians. We had neither time nor means to throw up even a slight breast work, to protect the troops from the attack of the enemy, or to cover our right. The idea of occupying the village and the high grounds in the rear of us, with our small force, might be stated upon paper, but ought not to appear elsewhere.

But why was not this last position taken originally in preference to Chatham or Dover?

It appears from the preceding narration, that at the time when the retreat was determined upon, I had not had an opportunity of examining the Moravian Village. But if I had then possessed the knowledge which I afterwards acquired, I could not have selected it. The vessels with the stores could not, from the nature of the navigation, have been brought thither. The Indians would not, in the first instance, have consented to retreat so far from their homes, and sufficient shelter could not have been afforded for the troops. In the position which I had so selected to meet the enemy near the Moravian Town, I awaited the attack with the utmost confidence that the result would be honourable to His Majesty's Arms, and to the Division under my command. It is necessary, however, for the understanding of the subject, that I should state the movements of the Indians after the Council of the twenty-eighth. When the retreat was commenced from Sandwich, the Indians had not joined us—many of them disbelieved the declaration of our intention to make a stand upon the Thames, and even the remainder entertained suspicions of a design to abandon the district. It was an object of the first moment to remove the disbelief of the one and the suspicions of the other class; a precipitation which the circumstances did not call for, (the bridges over the Rivers Canard and Turkey, in the line of march of the enemy being destroyed,) would have confirmed both, and the retreat, instead of being too slow, as stated in the charge, was, in truth, more precipitate than I had intended.

To convince the Indians of our intention to remain true to them as long as they remained true to themselves, I had ordered the troops to halt at Lavall's, ten miles from Sandwich—an order which was not obeyed. The movement of the troops from

Lavall's, on the morning of the twenty-eighth, has not been sufficiently explained by the evidence on the part of the prosecution, and it is to be hoped that the evidence on the part of the defence will throw some new light upon it. It is clear that this precipitate movement produced a mischievous effect on the minds of the Indians. For the purpose of giving confidence to the Indians, I felt it advisable to sleep, on the night of the twenty-seventh, between the enemy and the Division. The main body of the Indians did not arrive at Trudel's till the evening of the thirtieth, and many did not arrive till the first; the destruction of the bridge would have answered no purpose but producing the worst possible effect upon the Indians. The exertions which were made by me for the destruction of the bridges as soon as it was proper, have already in part appeared; the halts were necessary for the same purpose.

The charge of having promised the Indians that they should find the Forks of the Thames fortified, and having neglected to do so, comes with a peculiar ill grace from the prosecution, who blame me in the first charge for not having broken all my promises to the Indians. I never made the promise here stated, but I told them that I should fortify the Forks.

The key to a great variety of obstacles and embarrassments to which I was exposed, is to be found in the strong disposition of a large portion of the officers to retire from the territory. Hence the apathy, the indifference, with which my limited means were employed. What are the results of these facts? Are they not, that the retreat from Dover being unauthorised, I cannot be answerable for the consequences of it? That upon this and every ground, the loss of the boats is not imputed to me. That every exertion was made by me for the destruction

of the bridges as soon as practicable, and that in reality they interposed no obstacle of any consideration to the advance of the enemy. That if the Thames was not fortified, no blame attaches to me, and that the position taken by me near Moravian Town, was such as appeared, under all the circumstances, the most advantageous.

But I had almost forgotten the charge of suffering the division to be encumbered with useless baggage.

All the witnesses on the part of the prosecution itself have contradicted this charge. The prosecutor found himself at last obliged to attach himself to two waggons attending my family from Dolson's—I myself being then at Sandwich, and having my time occupied with my public duties. The attention of the prosecutor to the history of these waggons and their contents, might, in a more humble character, have deserved commendation, I, even I, the accused person, feel enough for the dignity of the prosecution to wish that they had not descended to this ; I feel enough for their character for humanity, to wish that they had not seemed to reproach me for allowing the unfortunate inhabitants of the district to carry away from it the little property which they could save from the enemy. But I cannot condescend to offer any observations upon the evidence produced, it must be supposed with the intention to support this charge, I cannot forbear from asking ?

Where are the persons who have circulated so many calumnies respecting my baggage ?

What is become of the public reproach that the Army was encumbered with an unmanageable load of forbidden private baggage ?

The only remaining charge, the fifth, will occupy but little of the time of the Court.

In it I am accused of not having, either prior or

subsequent to the attack of the enemy on the fifth of October, made the military arrangements best adapted to meet or assist the said attack, and that during the action, and after the troops had given way, I did not make any effectual attempt to rally or encourage them, or to co-operate with or support the Indians who were engaged with the enemy on the right. Here again my defence will be a mere narration of facts. In my answer to the preceding charge, I have stated the manner in which the troops were formed to meet the attack of the enemy. Indian scouts were sent in front of the line and across the river, to watch the enemy's approach. The enemy were reconnoitred by my own Staff and Officers of the Light Dragoons. I myself had previously reconnoitred them. It was at this time that I ascertained that the ammunition for the troops, which ought to have been conveyed with the Artillery, and for which waggons had been provided, had been, in consequence of an act of forgetfulness of the Officer of Artillery, conveyed by water, and had been lost. I immediately took measures for supplying this unfortunate omission, as appears by my letter to Major General De Rottenburg, which was sent from the ground by Mr. Wood, Clerk of Ordnance Stores. But what were the dispositions subsequent to the attack which I had omitted to make? I had every reason to believe that the advance of the enemy's mounted men along the road would have been checked by the gun. I could not suppose that their attack upon our line in the road could have been successful. I could not even suppose that it would be made. The enemy's General himself declares that it was a measure not sanctioned by any thing that he had ever seen or heard of. My surprise and disappointment may be easily conceived on

finding that the gun upon which so much depended, had been deserted without an effort,—that the first line, after having discharged their pieces without orders, had given way, and were dispersed, in a manner to preclude all hope of their being again formed, which was instantly followed by the dispersion of the second line. Although every effort seemed now to be hopeless, I urged the first line, by all the sentiments of shame and of duty, to meet the enemy. It was unavailing. The arrangements which seemed to secure victory were thus turned against myself. The mounted men ought, according to every idea, to have been driven back upon the Infantry, and have produced a confusion of which the Indians would have availed themselves. The line breaking so unexpectedly, the very circumstances of their mode of attack, which ought to have ensured the defeat of the enemy, rendered their success the more complete. In this situation, what was left for me? Was I to remain without any other hope but that of adding one more trophy to those, which the enemy had acquired? All hopes of retrieving the day were past. Soldiers who can appreciate the feelings with which I left that field, into which I had entered with a full confidence of victory, will not think that life was valuable enough to be preserved at any expense, still less at that of honour, where accidents and misconduct of the troops so cruelly disappointed my hopes. I have answered this charge according to the apparent intent of it; but the very language of it contains its own refutation. I did not, it is said, make the best arrangements for repulsing the enemy. What were those arrangements?

The Prosecutor here observes a prudent silence, —and of an offence like this, who is there that has

not been guilty. Perfection belongs not to humanity. Let the diversities of human opinions be looked to, and who is there that must not tremble if this can be construed into a crime? I did not make any effectual attempt to rally the Troops—the attempt made by me was not effectual. But was this a crime? Courts Martial claim an honourable exemption from those formalities which so frequently impede the course of justice in other Courts. But the substance is never there forgotten, and what belongs more to the substance than that offences should be distinctly stated; none is here stated. If I were to admit myself guilty of the fifth charge, no punishment could be awarded. On the other hand, when I have insinuations only to answer, the Prosecution protect themselves under them, and I am deprived of the fair advantage of exposing their calumny. I ought to apologize to the Court for taking up so much of their time with all the advantages which the outcry produced by the General Order of the 24th November, with all the advantages which have been derived from the examination of my own witnesses by the Prosecutor, (for the Prosecutor has not thought it inconsistent with propriety to resort to this novel practice, and the importance which he attaches to the conviction which he is desirous of obtaining, may perhaps justify it in his eyes.) I am obliged to make this apology. If any ordinary interest had been concerned, I should not have taken up the time of the Court with the examination of one witness, still less with this defence. I am, at the same time, not insensible of the disadvantage which I have to encounter in explaining my views, as to transactions upon which a new light has been thrown by these results, which at the time of forming my determination I could, of course, not know.

I have a satisfaction, however, in being able to shew, by the correspondence which I lay before you, that the views which I have above stated, are those which governed me, and that those views are not confined to myself. I cannot conclude without remarking my peculiar ill-fortune. If my recommendations respecting Presque Isle had been attended to, that Navy would have been destroyed. After the loss of our own Fleet, and the necessity of a retreat became evident, the resistance of the Troops and Indians at Dover ought to have been, and would, in all probability, have been successful. Again, near the Moravian Town, accident and misconduct deprived me of a victory which seemed certain. Lengthy as I may have seemed to be to some, I have omitted many circumstances of minor importance, not to trespass too much upon the time of the Court. My defence would have been shorter, if I had not been anxious that each member of this Court should leave it satisfied that my conduct has been that of a zealous officer, and one upon whom the experience of service had not been entirely thrown away.

My honour is in your hands, and I feel it is safe there.

Mr. President, and Gentlemen of this Honourable Court :

The evidence, as well on the part of the prosecution, as on my own part, being now closed, it remains for me to offer such observations upon it as appear to be material.

It will contribute to a clear view of the evidence, if the charges are first separately stated and the evidence applicable to each examined.

In the first charge it is said, "that I, being entrusted with the command of the right division of the Army serving in the Canadas, and the retreat of the said division from the western parts of Upper Canada, having become unavoidable, from the loss of the Fleet on Lake Erie, on the 10th September, did not make the military arrangements best calculated for promptly effecting such retreats, and unnecessarily delayed to commence the same until the evening of the 27th of the said month, on which day the enemy had landed in considerable force within a short distance of Sandwich, the head-quarters of the division."

The reasons which induced me to defer commencing the retreat until the 27th September, are fully stated in my defence. These reasons have been established and supported by the strongest evidence. The number of Indian warriors within the district which I commanded, is proved by Captain Caldwell and Mr. Jones, (whose means of information on this point were the best,) to have been from three to four thousand. All the officers of the Indian Department concur in saying that if I had retreated from the western parts of Upper Canada immediately after the loss of the Fleet was known to me, without the concurrence of the Indians, they would, in all probability, have laid waste the country, and perhaps have even attacked the division

under my command. It was with the greatest difficulty that a portion of them was induced to retreat to the mouth of the Thames. None of the Indian Department would propose to them to retreat from the western parts of Upper Canada, for they had taken up the hatchet for the purpose of extending their boundaries, and from the year 1795 they had entertained suspicions of our sincerity. The very proposal to retreat from the western parts of Upper Canada, would have been worse than useless; it would have made them our most inveterate enemies. The speech of Tecumseh affords the best evidence of the feelings of the Indians. "We will defend," said he, "our lands with our lives, and if such be the will of the Great Spirit, we will leave our bones upon them." Would this Chief, whose example and talents governed the councils of his brethren, have consented to abandon those lands, which he expressed with so much energy his determination to defend? Would not the suspicions of himself and his brethren have been confirmed by the very proposal? And would we not, then, have been considered by them as their enemies? Those persons who have had the best means of becoming acquainted with their character and dispositions, state it as their opinions that they could not in the first instance have been induced to retreat even as far as the Moravian Village.

Colonel Caldwell, who had served with them so far back as the year 1773, who was personally known to and esteemed by their Chiefs, and had several sons fighting in their ranks, perceived such marks of discontent in them, upon the retreat to the Thames only, being determined upon, that he did not think even his family safe within the district, and sent all of them, who were too young to take the field, to Lower Canada.

It is proved that the greateat expedition was used in convening the Councils which the scattered manner of living of the Indians, and their peculiar national manners, would permit.

Many of them could not be crossed over from the Detroit side, until the 29th of September, and the main body only came up with the Army on the 30th September, and many not until the 1st October. I could not, therefore, have left Sandwich before the 27th, without abandoning the Indian Alliance and producing consequences of the most alarming nature. I will not again take up the time of the Court in detailing the arrangements made by me, in consequence of my determination to retreat to the Thames. They are stated in the defence which I have laid before the Court, and have been satisfactorily proved, as well as others not mentioned in it.

But I have said that even if it had been in my power to commence the retreat before the 27th September, without making the great sacrifices which such a measure would have called for, I should not have been justified in doing so. We are all naturally disposed to think those measures unwise which prove ultimately to be unsuccessful, even though their want of means be due to accident or to unforeseen circumstances. It is with difficulty that we can place ourselves in the situation of the actors, and justly appreciate the reasons which have determined their conduct; for the results, particularly when they are unfortunate, throw a shade over objects, so that the most experienced eye can hardly distinguish their original colours.

I, therefore, cannot but consider myself as peculiarly fortunate in having it in my power to shew, by official documents, that the reasons which deter-

mined my mind were not confined to myself, but were the plain dictates of prudence, sanctioned by all who had the best means of judging, but who, like myself, could judge only from probabilities.

The letters of Colonel Harvey, Adjutant General with the Centre Division, of the 6th and 17th September, 1813, the letter of Major General Baynes, Adjutant General of North America, of the 18th September, 1813, and the despatch of his Excellency Sir George Prevost, the Commander in Chief of the Forces, of the 8th October, 1813, all serve to shew that I ought not, that I could not, commence my retreat before the 27th September.

But to conclude with this charge; let it be supposed for one instant that I had adopted the line of conduct which the Prosecution seems here to consider as the only wise and proper one; let it be supposed that immediately after the loss of the Fleet was known to me, I had made the military arrangements best calculated for promptly effecting my retreat from the western part of Upper Canada, and had not delayed the commencement of it, and had promptly effected it; let it be supposed further, that I had stood charged with this dereliction of duty, (and no one who looks at the map of the country, or the correspondence, or the evidence before the Court, can doubt but that I should and ought to have been so,) what might not then have been the language of the prosecution? You commanded an Army—small, it is true, but valorous and well disciplined: you were supported by a firm band of Indian warriors. The loss of the squadron could not affect you so immediately as to render a precipitate retrograde movement necessary. Every effort should have been made, and every device used, before this measure was resorted to. You

knew that you kept in check a large force of the enemy. By your movement to the Centre Division, you took away this check. You virtually directed the enemy to land at Long Point, where they might at once have intercepted the retreat of your Division, and get into the rear of the Centre Division, then in a situation the most critical. You have broken the faith of Government, pledged to the Indian warriors. You have exposed to their fury the peaceable inhabitants of the District which you commanded: their blood is upon your head. You have sacrificed the Centre Division of the Army, and with it all that is worth possessing of Upper Canada. And all this before the enemy landed in the territory—before it was certain that he would land there. You should have preserved unbroken the spirit of the British officer. You should have placed a dignified reliance upon your Government, and have known that your conduct in the trying circumstances in which you were placed would be judged with candour.

What answer could I have made to a charge like this? I must have bowed down my head in shame and confusion, and have been silent. Yet I stand accused in the charge which the Court is here called upon to determine for not adopting this very line of conduct.

In the second charge it is alleged, that after commencing the retreat of the division on the 27th September, although I had reason to believe that the enemy would immediately follow it with very superior numbers, and endeavour to harass and impede its march, I did not use due expedition, or take the proper measures for conducting the said retreat, having encumbered the said division with large quantities of useless baggage—having unnecessarily

halted the troops for several whole days, and having omitted to destroy the bridges over which the enemy would be obliged to pass, thereby affording them an opportunity to come up with the said division. The word *immediately* used in this charge requires some explanation. The enemy had landed five or six miles below Amherstburgh on the afternoon of the 27th September—that is, about twenty-three miles from Sandwich, whence the right division commenced its retreat on the afternoon or evening of the same day, when it marched ten miles. Two bridges in the line of march of the enemy, Turkey and Canard, had been destroyed. The heavy stores had been conveyed to the Thames before the retreat was commenced. I had, therefore, not reason to believe that the enemy would follow us so immediately as the charge would seem to imply.

The words “very superior numbers” in this charge, require also some explanation. The evidence upon this point is fortunately very satisfactory. Mr. Holmes, when examined on the part of the prosecution, states, from memory, that he reported five thousand as the numbers of the enemy on the 27th September. On reference to his report, however, which was produced and proved by himself on the defence, it will be seen that his memory (which after so long an interval of time is not surprising,) had failed him as to numbers, and that his report was above three thousand men. It will be seen, on reference to official documents connected with the right division of the Army, that this force was not one which ought to have excited very great alarm. After these explanations we may proceed to the substance of the charge. I am charged, first, with having encumbered the division with large quantities of useless baggage. This charge is not only not

supported by evidence, but is positively and directly contradicted by all the witnesses on the part of the prosecution and defence, who had any opportunity of knowing anything of the matter. So far from the division being encumbered with large quantities of useless baggage, there was none with it, at a time when there were several spare waggons.

I am charged, secondly, with having unnecessarily halted the troops for several whole days, and having omitted to destroy the bridges over which the enemy would be obliged to pass, thereby affording them an opportunity to come up with the said division. I trust that the evidence has sufficiently explained this charge. The halts of the troops, it will appear, were made with the view of obtaining the assistance of the Indian warriors, with the view also of satisfying them that we were not deserting the district, forfeiting the faith pledged to them by the Government. Was this unnecessary? The bridges which were omitted to be destroyed interposed no obstacle of any consideration to the advance of the enemy. The destruction of them would have deprived us of the Indian aid. The first is proved by the evidence on the part of the prosecution—the last by those whose opinions upon this point are entitled to the utmost consideration—the Indian Department. And would it have been wise to destroy these bridges, from which the enemy would have suffered much less than we ourselves should have done? They would have been retarded a few hours—we should have lost the Indian aid, and should, in all probability, have been exposed to their hostility. All these bridges of any importance were, in fact, destroyed, and the whole of the evidence proves that this object was not lost sight of, as far as was consistent with objects of infinitely higher importance.

In the third charge I am accused of not having taken the necessary measures for affording security to the boats, waggons, and carts laden with the ammunition, stores, and provisions required for the troops on their retreat, and allowed the said boats, waggons, and carts, on the 4th and 5th October, 1813, to remain in the rear of the said division, whereby the whole or greater part of the said ammunition, stores, and provisions either fell into the enemy's hands or was destroyed, to prevent its capture, and the troops were without provisions for a whole day, previous to their being attacked on the 5th of October. I have already stated that finding that the Forks at Chatham would have taken up some time to put into a state of defence, I had determined to make a stand at Dover: as connected with this determination the Moravian Village was an object of the first importance. It secured our line of communication for provisions; it served to protect our rear, and our sick might have been in security there. In the event of our being dislodged from Dover, we might have retreated to it. These were the considerations which determined me to take measures for erecting works at the Moravian Village, confidently expecting that if the enemy ventured to attack us at Dover, they would be repulsed with loss. My arrangements were principally with a view to the lower parts of the Thames. I did not anticipate that a retreat from Dover would be so precipitate. It cannot, therefore, excite surprise, if, when that event occurred, I found myself under the necessity of forwarding stores by water. The circumstances of the capture of these stores have already been so fully stated in the defence which has been laid before the Court, that it would be trespassing upon their time to repeat them. It is sufficient

to say, that the evidence fully establishes what I stated. The prosecution appears to consider that my object, in the first instance, was to proceed to the Moravian Village. This neither was nor could be my object. The Indians could not, in the first instance, have been induced to go so far. From the nature of the navigation, the stores could not have been conveyed thither within the time which I had at my command; the troops would have been without cover. These objections were in themselves insuperable, but over and above them I had not had the means of becoming acquainted with the position to justify me in adopting this resolution, if these obstacles, great as they were, had been surmounted. This charge concluded with stating that the troops were without provisions for a whole day previous to their being attacked on the 5th October. This statement is directly and positively contradicted, both by the evidence on the prosecution and on the defence. The troops being without bread on the morning of the 5th, is fully explained by Mr. Gilmore; and it is also in evidence, that as soon as this came to my knowledge I took immediate measures for supplying their wants. The testimony of Mr. Gilmore, and of several other witnesses, sufficiently shews that there was no want of attention on my part to the provisioning of the troops.

The fourth charge accuses me with having assured the Indian Chiefs in Council, at Amherstburg, as an inducement to them and to their warriors to accompany the division in its retreat, that on their arrival at Chatham they should find the Forks at Chatham fortified; I did nevertheless neglect to fortify the same; that I also neglected to occupy the heights above the Moravian Village, although the ordnance,

with the exception of one six-pounder, had been previously removed to that position, where, by throwing up works, the attack of the enemy might have been awaited, and they might have been engaged to great advantage; and that after intelligence had reached me of the approach of the enemy on the morning of the 5th October, I halted the division, notwithstanding it was within two miles of the said village, and formed it in a situation highly unfavourable for receiving the attack which afterwards took place. No promise was ever made by me that the Indian warriors should find the Forks of the Thames fortified, nor is there any evidence to that effect. I certainly said it was my intention to throw up works there, and the reason why that intention was abandoned has, in the previous stage of the proceedings, been fully stated. It is a little extraordinary that the prosecution, who, in the first charge, blame me for not at once sacrificing the public faith so often pledged to the Indians, should, in this charge, make it a crime not to have performed a promise which had never been made.

The reasons which determined me to occupy the position on which the engagement took place, in preference to the heights above the Moravian Village, have received the most ample confirmation from the evidence which has been offered. It has been proved that our right could have been turned if we had occupied the heights; it has been proved, too, by evidence entitled to the greatest consideration, that we should there have been deprived of our strongest arm—the Indian warriors. The ordnance near the Moravian Village was posted there for the purpose of defending the ford and village, and to cover the retreat, in the event of the division being forced from the position which was occupied.

The abandonment of the gun rendered all the arrangements which had been previously made fruitless, and joined with the precipitate flight of the troops, gave to the undisciplined cavalry of the enemy an effect which could not have been anticipated. The clue to this precipitate flight may be found in the half-yearly confidential reports to Lieutenant General Drummond, which I hope to have it in my power to lay before the Court. The preceding narrative contains the most prominent parts of a retreat, conducted under circumstances of peculiar embarrassment and privations, with a force on every account not the most disposable. In the situation in which I stood, it must be obvious that the difficulties naturally and inseparably attendant upon retrograde movements, were here augmented to a tenfold degree. But it was my duty to exercise my best discretion and to pursue the line of conduct which the public interest seemed to me to require, without being biassed either by considerations of personal ease or even the good and evil opinion of others. That line of conduct I have pursued, and it is a circumstance of high satisfaction to me that those who even think that I erred in my determination, if any such there be, must, at the same moment, feel what they consider as an error was an honest determination proceeding from zeal for the service, and the very opposite to what regard for my own ease should have directed.

The four first charges which I have gone through, relate almost entirely to alleged errors of judgment.

The fifth is of a very different complexion. In the form rather of secret insinuations than of open and public accusations, it attacks my character both as an officer and a man in its most vital parts. I did not, it is alleged in this charge, make any effec-

tual attempt, in my own person or otherwise, to rally or encourage the troops during the action and after they had given way, or to co-operate with and support the Indians, who were engaged with the enemy on the right, I having, it is said, quitted the field *soon after the action commenced*. A perusal of the evidence would produce an impression that the witnesses on the part of the prosecution and on the defence contradicted each other in their statements relating to this charge. A more attentive examination of it will remove this impression. The variances between them will be found to consist principally in their measurement of time—to which all were equally liable to error, even when the occurrences were passing under their eyes, and still more so when they were to be recalled to their recollection after an interval of more than a year. When the different points of view from which they were seen—the different feelings with which they were examined, are taken into consideration,—and when, over and above, it is recollected that more than a year had elapsed since the events took place, the concurrence of the testimony as to all essential points is truly surprising.

The Brigade Major and my Aid-de-Camp state my having ridden to the first line just before the firing commenced. Mr. LaRoque met me riding up to the first line, and being then between the two lines, Mr. Lefevre and Adjutant Fitzgerald saw me in rear of the first line when the firing commenced. The other evidences merely negative their having seen me, but do not deny that I was there. How did the firing commence, and what was the effect of it upon the first line? Colonel Warburton says, the troops fired immediately after the enemy's riflemen had commenced firing. I do not think the first

line loaded a second time, but immediately dispersed, some to the second line, some to the woods, and in another place the line gave way as the cavalry appeared; there were a great many light troops skirmishing at the time. The cavalry was the first that came down, but it was after the line gave way. Major Muir, after speaking of the limber of the gun passing the second line, says, nearly at the same time the men of the first line ran back to the second in rear of it, and a number of the enemy's horsemen close after them. Captain Chambers says, I was with the first line when the enemy advanced: they broke us soon; the charge was very rapid. And to another question he answers, that the first line was broken almost immediately; some men on the left did not fire more than once; some on the right fired two rounds. All the witnesses, both on the prosecution and defence, concur in this statement, except Col. Evans, who says that the dismounted infantry and the cavalry were actually penetrating through it when the first line broke. Was any attempt made by me in my own person or otherwise to rally the troops? Capt. Dixon and Adj. Fitzgerald, on the prosecution, Cor. Lefevre and my own personal Staff, speak to my attempts to rally the troops. The attempts of officers of the Regiment is spoken to by several witnesses, and all concur in saying no attempt could have been effectual. Captain Chambers is the only one who says that no attempts were made by me to rally the troops in front of the second line. But independently of the positive testimony against this assertion, it will be recollected that he states that he retired with the men endeavouring to collect them. Under what circumstances did the second line break? Major Muir, who commanded that line, after mentioning that the men of the first

line ran back to the second in rear of it, and a number of the enemy's horsemen close after it, adds, "the second line fired, and before they had time to load, the enemy's horse went through them." Captain Chambers says, "that the fire of the second line checked the enemy; immediately, however, he advanced in such force that the second line was directly broken." Colonel Evans thinks that this fire did not check the enemy. Adjutant Fitzgerald describes this fire as a straggling fire, as also does Major of Brigade Hall; Captain Bullock, as a fire oblique to the left; and Lieutenant M'Lean, as a running fire, as regular as circumstances would admit of. It was at the moment this fire was delivered that I was passing the left flank of the reserve, and all concur in saying that the reserve, after delivering its fire, was immediately penetrated at all points and captured. And if I was not myself taken, it was only owing to an accident which choked up the road. Captain LaRoque saw me a very short time before he was himself made a prisoner, and states when I passed him the firing had ceased, except on the right, where it will be recollected the Indians were engaged, and between whom and us the enemy's cavalry was. The testimony of the witnesses respecting the length of time which intervened between the first fire and the complete dispersion of the troops is, as might be expected, very different, some stating it from ten minutes to a quarter of an hour; others, at two and a half and three and four minutes. I will not take up the time of the Court in commenting upon this evidence, as the fact does not appear to be very material; but the weight of probability and of evidence is in favour of the shorter period. And how, I may be permitted to ask, was it possible, under these circumstances, to co-operate

with or support the Indians upon the right? It is plain that from the manner in which the troops were dispersed, and the description of force by which they were pursued, the few who could effect their escape could only do so by retreating into the woods with the Indians, and that it would have been madness to expect to rally them at the Moravian Village. Next to the pain of being found guilty of a charge like this, (if one who was guilty could feel any pain,) is that of being accused, particularly in an officer who has served many years, he trusts without discredit. The satisfaction of being able to justify himself is far from healing the wound. My justification I have sought for in the evidence of the prosecution itself, and I have found it there—for truth is easily found. But I can never forget the charge. I turn with pleasure from this subject to the grateful reflection that, by the decision of an honourable and impartial tribunal, a period will be at least put to secret aspersions and open attacks, from which I have, for the last twelve months, so much suffered.

