



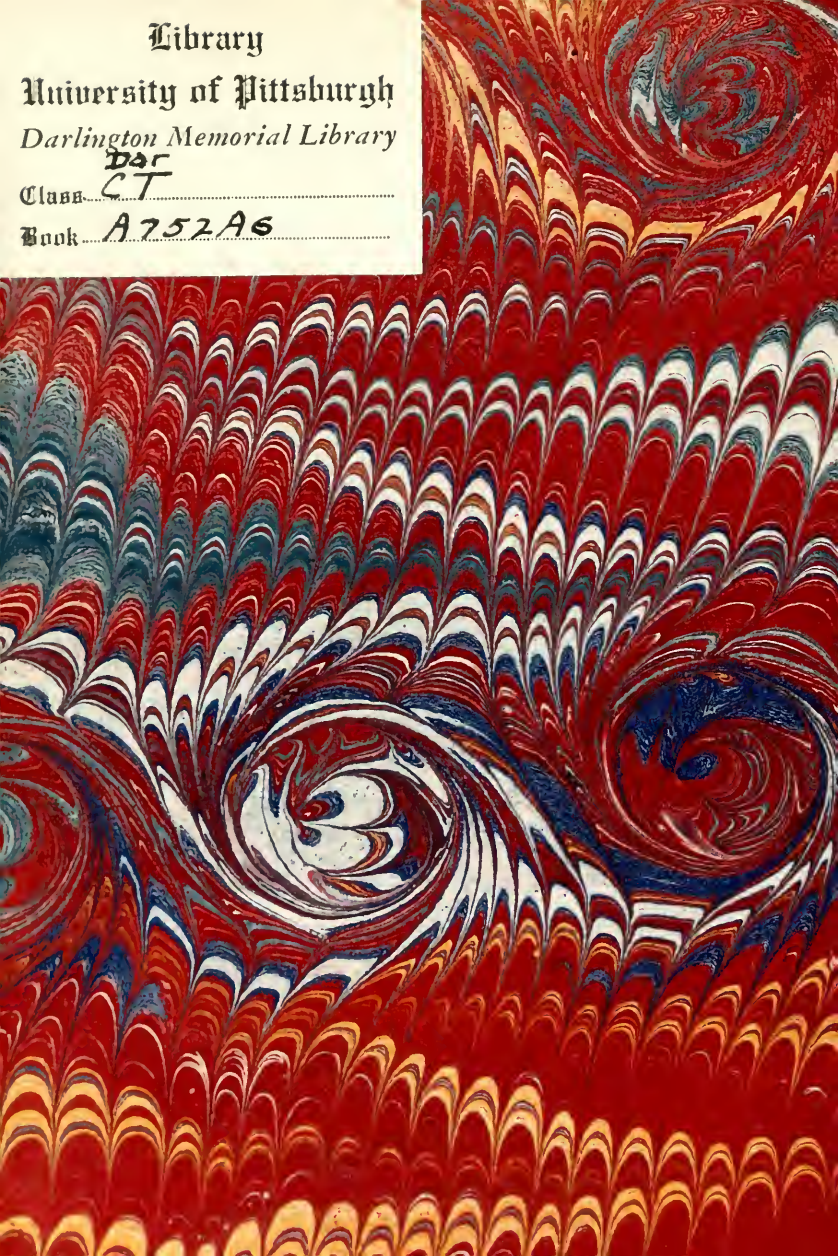
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247 BROADWAY, N. Y.,

April 30th, 1865.

Dear Sir :

I have in press (Mr. Munsell's) a new Edition of the "Proceedings of a General Court-Martial held at Raritan, New Jersey, for the Trial of Major General Arnold, June 1, 1779," with an Introduction, Notes, and Index, and also a new Portrait, engraved by Mr. H. B. Hall, expressly for this work.

The work will be printed on fine laid tinted paper, with new type. Edition strictly limited to 135 copies.

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FRANCIS S. HOFFMAN.



PROCEEDINGS

OF A

General Court Martial

FOR THE TRIAL OF

MAJOR GENERAL ARNOLD, *Be male, 1790-1860*

WITH AN

Introduction, Notes, and Index.



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H. W. Munson

J. MUNSELL, *Printer.*



INTRODUCTION.

IN the 18th of June, 1778, the British army evacuated Philadelphia, and withdrew towards New York, its heavy supplies and a large amount of property of individuals preferring to share its fortunes being sent around in vessels to that place. The American army at Valley Forge, some twenty miles distant, were previously informed of the intentions of the enemy, and as soon as the movement was made, occupied the city, the greater portion crossing the river in pursuit of the retreating enemy, who were overtaken and fought at Monmouth ten days afterwards.

General Arnold, in the month of October previous, had been severely wounded in the Battle of Saratoga, where, although not in command, he took a conspicuous part, and by that personal bravery and reckless disregard of danger by which he had been often before distinguished, he did much
towards

towards deciding the fortunes of battle in favour of the American arms. He remained at Albany through the winter, with the bone of a leg fractured; and when this had so far healed as to allow him to leave his room, he went to Middletown, Conn., and after spending a month proceeded to New Haven.

Wherever he travelled, the fame of his military achievements secured him an honorable welcome, and the most respectful attentions. At New Haven he received from General Washington as a present, in token of his highest approbation, a pair of epaulettes and a sword knot, one of a set of three, received from a gentleman in France. Of the other sets, General Washington presented one to General Lincoln, and retained the other himself.

Before the close of May, Arnold joined the army at Valley Forge; and as his wound had not yet so far recovered as to enable him to take an active part in the opening campaign, and as a further token of confidence from the commander in chief, he received an appointment as commandant at Philadelphia, which was then expected to fall again into our hands in a few days. This trust, although not of particular military importance, was one of great delicacy and responsibility, since, during the eight months of occupation by the enemy, they had pursued a conciliatory policy towards the inhabitants, and many persons had become favourably impressed with regard to the royal cause. The sufferings at Valley Forge, of which
rumours

rumours exaggerated for effect, were published within the enemy's lines, contrasting with the plenty and festivity of the city, must have had an influence in impressing a conviction that the end of the revolution was drawing nigh, and that an early return to allegiance would be the surest means of securing property and personal advancement under a returning peace. This feeling was more prevalent among the wealthy and influential classes, who had more to save, and more to gain by a return to power of the aristocratic institutions of the colonies.

There was also a large amount of merchandize, and other property in the city, of doubtful ownership, or in the hands of persons of questionable patriotism, the disposition of which, might do much good or harm to the colonial cause, according as it was used for or against its interests; and which, from the circumstances of the case, often allowed of collusion, private partnerships and secret sale, the more effectually to evade strict military justice, and the regulations of trade and transfer which it was found necessary to establish.

With these temptations and opportunities around him, and viewed in the light of our present knowledge of the character of Arnold, it was the wrong place to put a man who like him, had no controlling sense of patriotism and honour; but who could readily traffick in both to promote his inordinate avarice, vanity and pride. But the commander-in-chief, himself incapable of a dishonorable thought or deed,

was

was anxious to confer upon the intrepid Arnold, a position which should itself be an honourable acknowledgment of military merit, and an example of the value set upon bravery, by showing its reward, and in view of his present disability from the service, assigned him the position.

Under a resolution of congress passed June 5th, 1778, the commander-in-chief was ordered to suspend the removal, sale, or transfer of goods in Philadelphia, whenever it should fall into our hands, until a joint committee of that body, and of the executive council of Pennsylvania, should ascertain whether it were the property of the king or his subjects. In pursuance of this order, and as proved in the trial subsequently held before a court martial, with the approbation and assistance of the president of the council, a proclamation was prepared and issued, closing all stores of goods, until the joint committee could take action concerning them, under the resolution of congress above noticed. This regulation although sanctioned by the highest authority, proved burdensome to the people, and led to the most grievous complaints against the immediate agency through which, and in whose name it was ordered, and in the subsequent difficulties was made one of the charges against the administration of General Arnold, but was not maintained. From its first being felt among the poorer classes, who were most affected by its operation, it laid the foundation of an early and bitter feeling of dislike towards General Arnold, which might have been equally felt towards the best of men

under

under like circumstances, until removed by a course of conduct that should, while it showed its necessity, at the same time prove the strict integrity with which it was executed.

But there was nothing in the character of General Arnold to conciliate the favour of the popular masses when once lost, and the lustre of his military fame, as the fighting general, was soon obscured by a course of official and private conduct, which betrayed the speculator, and the weak, vain, and ambitious man.

On the 23d of June, 1778, when General Arnold had been but four days in command at Philadelphia, he formed a very suspicious partnership, by which goods not wanted for the publick use, were purchased with publick funds and sold for the benefit of himself and partners.

The powers of the commandant were necessarily left indefinite, and the line of separation between civil and military authority was not clearly defined. These doubtful questions, in the hands of a person of unfulled patriotism, and firm integrity, would have presented no difficulties in a faithful and acceptable administration. Justice and equity, would have suggested the line of duty, and a due regard to the publick good and to private rights, would have supplied the place of law, under circumstances where the necessities of the hour, might be the only rule of action.

But with a man like Arnold, of habits and motives imperious, crafty and mercenary, it could not be expected that

that he would long harmonize with a civil power which, upon many points, claimed concurrent jurisdiction.

General Arnold's associations in the city were largely among those who secretly preferred the success of the royal cause. During his residence there, he formed an alliance by marriage, with the family of Mr. Edward Shippen, who was prominently known to prefer the old order of things, and his young wife, beautiful, gay, and ambitious, had been admired and flattered by the officers of the British army, during their residence in the city. Among these was Major Andre, with whom she corresponded, after the British army withdrew to New York, and who afterwards became an accessory, and victim to the treason of her husband. She was, probably, unconscious of the true facts of the case, and of too light and frivolous a character, to be trusted with a plan in which silence and mystery were essential elements of success.

The facilities for communication with the enemy were thus easy and ample, but we have no evidence that he had, as yet, formed any definite plans for returning to the allegiance of the crown; although he doubtless familiarized himself with the alternatives which the chances of war might bring, with the view of seizing the first opportunity which any event might offer, to advance his own fortune.

His professions were, however, on all occasions, until the final disclosure of his conspiracy, entirely patriotic, and for whatever he did or attempted, he had a reason ostensibly consistent

confistent with the public good. His first correspondence with André, began under an assumed name, about April, 1779.

The habits of General Arnold, while holding chief military command in Philadelphia, were sumptuous and extravagant to a degree far beyond the income from his pay and the regular allowances of government. He indulged in an expensive equipage, a sumptuous table, and costly livery. His house was one that had belonged to the Penn family, and his entertainments, and style of living generally, were such as might be expected of a prince, rather than of an army officer in a simple republic. As a natural consequence, he became involved in debt, from which he undertook to extricate himself by private speculations, which were unfortunate. He took shares in privateers, and was unlucky. He presented claims against the United States, for expenses incurred in his northern campaigns, which were disallowed by the commissioners appointed to audit them. He quarreled with members of congress who happened to oppose his claims, and he was continually alluding to his wounds, his scars, and his services, as a reason why his pretensions should be regarded and his demands allowed.

At one time, he proposed to resign his commission and enter the navy, and at another to engage in privateering, but neither of these schemes were matured.

His administration proved obnoxious to the inhabitants from the beginning; and his assumptions of power coming in conflict with the jurisdiction of the supreme executive council,

council, led at length to the passage of resolutions by that body, severely censuring his conduct. To understand fully these relations, it may be proper briefly to notice the form of government that then existed in Pennsylvania, under the constitution of September 28, 1776.

The powers of government were vested in a general assembly, and a supreme executive council. The former consisted of members elected annually, and possessed sole legislative power, their vote and seal giving validity to all laws without further approval. Their sessions were publick. No representative could serve more than four years in seven, and none but freemen "most noted for wisdom and virtue," were eligible.

The supreme executive council, consisted of twelve members, elected one from each county, and (after the first), for three years, and by virtue of their office, made justices of the peace for the whole commonwealth. To counteract "the danger of establishing an inconvenient aristocracy" no member of the general assembly, or delegate in congress, could be chosen to this office, and after serving three years, they were ineligible during the next four years afterwards. This council elected from their number a president, who was commander in chief of all the forces of the state. It possessed the power of appointing most civil and military officers in the commonwealth. It could grant licences and pardons, remit fines and penalties, regulate commerce and the intercourse with other states, and perform executive acts generally.

generally. It also sat as a court, for the trial of impeachment, and suits in chancery in certain cases. This constitution was superseded in 1790.

The difficulties between General Arnold and the council began within a week after he took command, while President Wharton was in the presidential chair, and continued to become more formidable and aggravated, until they led to the resolutions of censure above alluded to, in which the attorney general was directed to commence a prosecution. As General Arnold was an officer of the United States, it was thought proper to make an appeal to congress.

The charges, with a letter from President Reed, and other papers, were laid before that body, and in due course came up for action. A committee of inquiry relieved General Arnold from any criminality in the charges, but a misunderstanding having prevented the council from furnishing such testimony as was necessary to sustain their charges, congress neglected to act upon the report of their committee, but by an agreement between the parties, the question was referred to a joint committee of congress and the assembly and council of Pennsylvania. This joint commission was found to be embarrassed with so many difficulties, that the affair was finally put into the hands of the commander in chief, who referred it to a court martial. This arrangement having been agreed to by the joint committee, and approved by congress, went into effect, to the infinite disgust of General Arnold; who had hoped through his influence

fluence with the joint committee, to secure a decision in his favor. He affected to regard this disposition of his case as a compromise, in which his interests had been sacrificed by congress to conciliate the government of Pennsylvania. He, however, acquiesced in the arrangement, requested an early action by the court martial, and professed the utmost confidence in his ability to secure a favorable decision. But the council were not ready to proceed to trial, and three months elapsed before their preparations were completed. General Arnold complained of this delay, as a pretext of keeping him under odious charges before the publick mind. The commander in chief in notifying the form of trial, required the council to act as the accusing party. To this President Reed, in behalf of the council, strongly objected, saying that their intention was only to make known their opinion of General Arnold to his superiors and the publick ; and that to go beyond this would be inconsistent with their dignity ; but the points of etiquette thus raised, were finally waived, and they proceeded to prepare for the trial. The correspondence between President Reed and General Washington, relative to the mode of bringing on and conducting the trial, as given in full, in the published life and correspondence of Mr. Reed, is quite voluminous, and involves points of discussion which it is not necessary for us here to enumerate.

General Arnold resigned his command in Philadelphia on the 18th of March, 1779, upon the report of the committee of congress on the charges being announced. The

next

next day he informed the board of war of this action in the following letter :

Philadelphia, March 19, 1779.

SIR,

Having sometime since, obtained permission of His Excellency, General Washington, I have this day resigned my command in this city to Brigadier General Hogan, of which I thought proper to give the Hon'ble Board of War notice, that notwithstanding my having given up the command, I shall be happy at all times to render my country every service in my power.

I am with respect, sir,

Your obed. and humble Servt.,

B. ARNOLD.

Directed

Major Scull, Sect'y to the Board of War.

General Arnold still continued to reside in the city, and to maintain the same expensive habits and style of living as before, and was constantly becoming every day more deeply involved in debt. When the time first appointed for trial arrived, the court had scarcely organized, and the preliminary proceedings finished, when the movements of the enemy rendered it necessary to adjourn the court, in order to allow its members to resume their duties in the field, nor did an opportunity again occur for them to meet before winter. For this new disappointment, there was no remedy, and the accused was forced to submit to the protracted suspense and irritation

irritation of a long delay, which necessarily implied inaction, and gave his opponents the advantage of that obloquy, which the publick usually attached to an officer under charges.

The active duties of the campaign having ended, Gen. Washington addressed the following letter to President Reed :

Head-Quarters, Morristown, Dec. 4th, 1779.

SIR,

I have the honour to inform Your Excellency and the Council, by the conveyance which now offers by express, that Monday the 20th instant, is appointed for proceeding in the trial of Major Genl. Arnold. The court martial will sit at the camp in the vicinity of Morristown. I have written to Mr. Matlack and informed him of these circumstances, and I request the favour of Your Excellency to communicate notice of the same to any witnesses there may be besides. If there are any in the military line, and I am informed of them, I will order their attendance, or if there are any under this description at, or in the neighborhood of Philadelphia, who might possibly go from thence before they could receive my order, Congress, I am persuaded, will, upon information of the fact, direct them to attend.

I have the honour to be, with great respect,

Your Excellency's most obedt. servt.,

GO. WASHINGTON.

Among

Among those who first observed the treacherous villainy of General Arnold, was Col. John Brown of Pittsfield, Mass.

On a public occasion at Albany, two years before, Col. Brown charged Arnold with treasonable intentions and conduct. He subsequently submitted charges against him to congress, but for some reason that does not appear, they were not acted upon by that body.

Learning of the difficulties in which Arnold had become involved with the council of Pennsylvania, he sought to add the weight of his own charges to those that might be drawn up by the council, and enclosed them to President Reed, in the following letter :

Pittsfield, 7th March, 1779.

SIR,

Inclosed I send you a copy of an impeachment ag^t Gen^l. Arnold, who found means in a very extraordinary manner, and by the help of some extraordinary minds, to evade a trial. I wish I could say that congress had been less concerned in this matter: perhaps at this day they may be of my opinion, altho' they, contrary and in direct violation of the laws military, and antecedently by them established for the regulation of the army, gave Gen^l. Arnold a sham trial in congress, without giving me the least notice. But as I have stated this matter anew to congress, shall give your hon^r no further claim than to suggest that the last charge in the impeachment, can now be fully supported, which, tho' trifling,

trifling, connected with Gen^l Arnold's character, yet might affect that of a better man. The other charges might be chiefly supported, tho' the evidence is now much dissipated.

I take the liberty to use this freedom, on the presumption of a probability of the charges having been suppressed in your state: Gen^l Arnold, I am told, was in high repute at that time in y^e middle and southern states.

I am sir most respectfully,

Your hon^s most obedient humble servt.,

JNO BROWN.

N. B. Since the writing this letter, have been hon with a letter from the hon^{ble} T. Matlack Esq., with pamphlets and charges agst G. Arnold inclosed, for which I take this opportunity to return that gentleman my most hearty and sincere thanks. Can assure your hon^r that I am extremely happy to hear, that so great a villain is at last detected, or the old proverb verified "give a Thief length of Rope, and he will hang himself." Shall accept as a peculiar favor that the hon^{ble} Mr. Matlack transmit me the remainder of the trial and issue of the impeachments exhibited by the hon^{ble} council. Expect to be in Philadelphia soon, at which time shall do myself the honor of making some acquaintance with your hon^r, particularly on the subject of Gen^l Arnold, of which your sec'y has been pleased to favor me with a copy.

I am, &c.,

B.

Hon^{ble} Joseph Reed, Esq.

To

To this letter Mr. Matlack replied :

Philadelphia, March 29, 1779.

SIR :

Having lately taken the liberty, under the signature of T. G. to use a publication signed by you, I now beg leave to enclose to you the proceedings of the council of Pennsylvania, in a case relating to the conduct of Major General Arnold. Every day turns up something new relating to the course of this Phenomenon : and I shall send you the further proceedings in this case as soon as they are closed, as it is probable they will produce important consequences one way or another. I am, altho' a stranger to your person, with great respect,

Your very humble servant,

T. M., *Sec.*

Directed :

To Lieut. Col. John Brown, at Pittsfield in Connecticut [Massachusetts].

Colonel Brown may possibly have never heard of the consummation of Arnold's treachery, which he so confidently believed him to be meditating. He fell in the defence of a stockaded fort at Stone Arabia, Tryon county (now Palatine, Montgomery county), New York, on the 18th of October, 1780, on his thirty-sixth birth day. Just fifty-six years afterwards, a monument was erected over his grave by his son, Henry Brown of Berkshire, Massachusetts.

Having given the principal facts in the proceedings against Arnold, it may be proper to notice some of the characters concerned in the trial, either as prosecutors, or as members of the court. Of these the most prominent, was Mr. Joseph Reed, then president of the council of Pennsylvania.

Joseph Reed was born in Trenton, N. J., Aug. 27, 1742; graduated at Princeton in 1757; studied law with Richard Stockton, an eminent lawyer of New Jersey, and was admitted to practice in 1763. He completed his legal education in London, where he resided until 1765. While abroad, he formed an acquaintance, which led to a correspondence with Lord Dartmouth, secretary of state for the colonies, which was continued for some time, with some prospect of its leading to concessions by the mother country in favor of the colonies. But the period of negotiation ended with the beginning of hostilities, and Mr. Reed threw his influence without reserve into the colonial cause. He had settled in Philadelphia, upon his return from England, and at an early period of the war, was made chairman of a committee for the relief of the citizens of Boston. He also became lieutenant colonel of a battalion of Pennsylvania militia. Upon the appointment of General Washington as commander in chief, Mr. Reed was made his secretary. After four months' service at head quarters, he returned home to Philadelphia, where private duties prevented him from again resuming the office.

A conflict with the proprietary form of government, had
been

been going on for some years in Pennsylvania, and men of unquestionable patriotism were found who favored, and others who opposed a change in the existing order of publick affairs. The committee of safety which was formed at this crisis, and of which Mr. Reed became chairman, was therefore embarrassed by this difference of parties, and the duties which devolved upon this body were often delicate and responsible. In 1776, Mr. Reed was elected to the assembly, in which he proposed to effect certain reforms, but the sessions of that body were not long continued, and a new form of government was prepared and went into operation in the fall of that year.

On the 5th of June, 1776, Mr. Reed was appointed adjutant general to the army, and soon entered upon the duties of this office at head quarters, then in New York city. He participated in the battle of Long Island, and in the military movements of the ensuing campaign. Towards the close of the year, a letter from Gen. Charles Lee, addressed to Col. Reed, and received at head quarters during his absence, was opened by General Washington, who supposed it related to publick business. It proved to be confidential, and apparently in answer to one in which Col. Reed had censured the commander in chief for the loss of Fort Washington, and regretting the absence of General Lee, from the councils at head quarters.

A most cordial and confidential relation had hitherto existed between General Washington and Colonel Reed,
which

which this discovery very naturally checked. The matter was subsequently explained in a way to relieve it from some of its more objectionable features, and the commander in chief continued his official relations as formerly. From what is now known of the character and motives of General Lee, it may be readily understood, that he would gladly seize upon any pretext for advancing himself in the esteem of the army, or of promoting discord among its officers, if by such means he could gain a personal advantage, or attain that eminence which his fordid ambition craved, and which he subsequently sought to purchase by his own treason.*

On the 1st of December, 1776, Col. Reed enclosed his resignation, from Burlington to Gen. Washington, but a sudden turn of events induced him to send a special messenger to recall the resignation, and he continued to discharge the duties of the office, until the events at Trenton and Princeton, when he resigned the office, and was succeeded by Colonel Pickering. In May, 1777, he was elected a brigadier general, and was tendered the command of the light horse, but he declined the position, and some months later Count Pulaski was chosen to that command.

On the 20th of March, 1777, he was chosen chief justice of Pennsylvania, but he declined this office, and subsequently served with the army as a volunteer, without rank or pay, most of the ensuing campaign. He was chosen

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* This correspondence is given in full in the fourth volume of the *Life and Writings of Gen. Washington* by Mr. Sparks.

a delegate in congress in September, 1777, but remained in the field, and did not attend its sessions under this appointment. A new election took place on the 10th of December, 1777, when he was again chosen. During the winter he was named one of a committee to examine into the condition of the army at Valley Forge, and he remained there most of the winter, and he did not resume his seat in congress till the 6th of April. He was soon after required to return to camp.

A commission charged with powers to negotiate a settlement of the difficulties with Great Britain arrived at Philadelphia on the 6th of June, and a few days after letters were received from them by Mr. Reed, which were submitted to the commander in chief, and proper answers prepared, but the evacuation of Philadelphia followed soon after, and nothing was accomplished, if indeed, the answer to the overtures was ever received. Mr. Reed joined the army on the 22d of June, 1778, participated in its movements for harassing or intercepting the British army on its retreat to New York, and was actively engaged in the battle of Monmouth, June 28th, where he had a horse shot under him. He then returned to Philadelphia, and resumed his seat in congress.

The peace commissioners with the British army, as they were about leaving Philadelphia, had made an arrangement by which a verbal offer by Mr. Johnstone of ten thousand pounds sterling, with any office in the colonies in his majesty's

majesty's gift, was to be made to Mr. Reed, if he would lend his influence to promote the re-union of the colonies with the mother country. This offer he rejected, and on the 18th of July, laid the whole subject before congress. Much indignation was felt at this attempt to bribe and corrupt a member of congress, and on the 11th of August, resolutions were passed denouncing the commissioners, and declaring that it is incompatible with the honor of congress, to hold any manner of correspondence or intercourse with George Johnstone, Esquire, especially to negotiate with him upon affairs in which the cause of liberty is interested.

In the summer of 1778, Mr. Reed was employed in assisting the attorney general, Mr. Sergeant, in prosecuting publick offenders, and on the 5th of November of that year he was chosen president of the executive council, having been elected a member of the council by the people, during the month previous. To this office he was annually re-elected, during the constitutional term of three years. He was subsequently employed in conducting the Wyoming controversy on behalf of the state of Pennsylvania, against the state of Connecticut. In 1784, he made a voyage to England, chiefly for the restoration of his health, but returned in nine months but little benefitted. He was elected to congress from Pennsylvania after his return, but was unable to take his seat, and died on the 5th of March, 1785, at the age of forty-three years.

During his official connection with the army, he became
involved

involved in a controversy with General John Cadwalader, in which charges of disloyalty were made and denied with much spirit. The reader will find both sides of this controversy, reprinted in a volume by Mr. Munfell of Albany in 1863. It is not in our province to decide the merits of the case, as it had no relation to the difficulty with General Arnold.

Col. James Read, a member of the council, was a native of the province of Delaware. He was descended from an ancient family, which had for centuries held a distinguished position, both in England and Ireland. His grandfather was a gentleman of rank and fortune, residing in the city of Dublin, where his father, John Read, Esquire, was born in the last year of the reign of King James the Second, A. D. 1688. Having received a manorial grant from his fellow countryman, Lord Baltimore, John Read, in spite of much parental opposition, when quite young removed to the province of Maryland, and having established himself on a large plantation in Cecil county, married Miss Mary Howell, an aunt of the late Governor Howell of New Jersey. In the year 1734, Mr. Read, still retaining his original seat in Maryland, removed to an estate which he owned in Newcastle county in the Delaware province. Here Col. James Read was born, in the year 1743.

Early in life Col. Read removed to the city of Philadelphia, and took a prominent part in the Revolutionary war. In 1775, he was appointed paymaster of the fleet. Wish-
ing

ing more active service, he applied to congress for a commission in the army, but was induced to withdraw his application and accept the office of paymaster of the marine department, by the earnest solicitation of his friend Robert Morris, the financier of the Revolution, who was well acquainted with Colonel Read's ability, and anxiously wished for his assistance. In January, 1776, Mr. Read was elected first lieutenant of a company in the 3d battalion of Associators. Sharpe Delaney was the captain, and Moses Levy, afterwards president judge of the district court, was the ensign. Lieut. Read was with General Washington when he crossed the Delaware on Christmas night, 1776, and within a short time, participated with his company in the last bayonet charge at the battle of Princeton. In 1777, President Wharton of Pennsylvania, sent him a commission, constituting him "sub-lieutenant of the city of Philadelphia, for the purpose of mustering and classing the militia" with the rank of lieutenant colonel. This he declined. In June, 1777, he accepted the majority of the 1st battalion of Philadelphia city militia, and was present at the battle of Brandywine in September. Soon afterwards he was appointed brigade major on the staff of Gen. Irwin, and held that position at the battle of Germantown. In 1779, Major Read was made lieutenant colonel commandant of a Philadelphia regiment, and resigned as paymaster of the navy. In the same year congress appointed Col. Read, John Wharton, and William Winder, commissioners of the
navy

navy board. Messrs. Wharton and Winder having declined, congress authorized Col. Read to act alone. Cooper, in his *Naval History*, says: "In October, 1779, * * * a board of admiralty was established. * * * In January, 1781, James Read [misspelled Reed] was appointed by special resolution to manage the affairs of the navy board in the middle department." Col. Read served again as paymaster of the navy from July, 1783, to September, 1784, when the marine department was reorganized under Mr. Morris, as agent of marine, Col. Read was appointed secretary, and served until the close of the war. Col. Read was director of the city library company, director of the bank of North America, and director and president of the Philadelphia mutual insurance company. He was for several years a member of the select council of Philadelphia, and during the war of 1812, was appointed by that body one of the committee to provide for the defence of the river Delaware. He was also for a long time, member of the supreme executive council of Pennsylvania. His eldest brother, the Hon. George Read, who had been, before the revolution, royal attorney general, and the leader of the proprietary party in Delaware, filled a great variety of high publick stations. He was a member of congress during the whole revolutionary war, and a signer of the declaration of independence; president of Delaware, and president of the convention which framed the first constitution of that state; judge of the court of appeals, by congressional appointment; member of the

the Annapolis convention ; member of the convention which framed the constitution of the United States ; United States senator ; and chief justice of Delaware. Commodore Thomas Read, a younger brother of Col. James Read, was eighth on the continental navy list, and commanded the guns which raked the Assanpink at the battle of Trenton. He was a member of the Cincinnati society.

Col. Read died at Philadelphia, on the 31st of December, 1822, aged seventy-nine. His son, Col. James Read, Jr., was a very cultivated and learned man ; while at Stockholm, just after the war of 1812, in company with the celebrated English traveler, Sir Robert Kerr Porter, he attracted the attention of the queen of Sweden, and received from her majesty the decoration of the royal social order of the Amaranth.

Mrs. S. R. Eckard, the daughter of Col. James Read, Sr., and the wife of the Norwegian consul general, was a very gifted woman. She is known as the author of the description of Washington's Farewell Address, first printed in the *Washington Intelligencer*, and afterwards published by Mr. Geo. Washington Parke Custis in his *Reminiscences* ; and was also introduced as one of the characters in a novel entitled *Justina*, written many years since by her friend, Mrs. De Witt, the wife of the Hon. Simeon De Witt, former surveyor general of New York. Mrs. Eckard deceased at Philadelphia in December, 1861, aged eighty-five.

Of the other members of the council, several of whom were from the interior counties of Pennsylvania, we have been unable to obtain the data for particular notice.

Gen. John Laurence, the judge advocate of the trial, was from Cornwall, England, where he was born in 1750. He emigrated to America in 1767, was admitted to the bar in 1772, entered the army in 1775, and served through the war, in which he attained the grade of general. In 1783, he resumed the practice of law in New York. In March, 1785, he was chosen from New York, a delegate in congress. He was elected a member of the first and second congresses, under the constitution; in 1794, he became judge of the district court of New York; and in 1796, a senator in congress, in place of Rufus King. He served till 1800, and then retired to private life, and died at No. 356 Broadway, N. Y., Nov., 1810, in the sixtieth year of his age. He married a daughter of Gen. Alexander McDougall, an ardent patriot, and his publick and private life was active, honourable and useful.

Gen. Howe, president of the court, was born in Brunswick, N. C., became colonel of the 1st N. C. regiment, and went early into the conflict. In December, 1775, he joined Woodford at Norfolk, in opposition to Lord Dunmore; and in the following year, he served in Virginia; and in 1778, in Georgia and Florida. Here he was unsuccessful, and the censures which were thrown upon his conduct, led to a duel with Mr. Gadsden, Aug. 13, 1778. Major Andre wrote a humorous account in rhyme upon this encounter.

Gen. Smallwood was born in Maryland. He served in
the

the battles of Long Island in 1776, of Brandywine and Germantown, and in the expedition under Gates in the South. In, 1785, he was chosen a delegate in congress, and the same year governor of Maryland. He died in February, 1792.

Gen. Knox, had in charge the artillery department of the army, and his intimate connection with the revolution is well known to every reader of American history. He was afterwards secretary of war, and held this office eleven years. He died at Thomaston, Maine, Oct. 25, 1806.

Gen. Woodford was a native of Caroline county, Va., and was distinguished in the French and Indian wars. In 1775, he was appointed colonel of the 2d Virginia regiment. He served in the battle of Great Bridge in December, 1775; at Brandywine (where he was wounded); and at Monmouth. He was taken prisoner, at Charleston, during the siege of 1780, and died in the hands of the enemy at New York, November 13th of that year, aged forty-six years.

Gen. Irvine was born in Ireland, was educated as a physician, and served as a surgeon on a British ship of war. In 1763, he settled at Carlisle, Pa. He entered the service on the breaking out of the revolution, served in Canada, and was taken prisoner at Three Rivers, and detained at Quebec, until exchanged in 1778. In 1781, he was entrusted with the defence of the north-western frontiers, and promoted to major general. He was a member of congress from 1793 to 1795; was a commissioner in the Whiskey rebellion

of 1794; and soon after removed to Philadelphia, where he was appointed a superintendent of military stores. He died July 30, 1804, aged sixty-three years.

Col. Van Cortlandt, entered the revolution at an early period, and served through the war. In 1793, he entered congress, and remained sixteen years. He died Nov. 5, 1831, aged 82 years.

The proceedings of the court martial upon the case of General Arnold, were confirmed by congress on the 12th of February, 1780, and on the 15th, it was ordered that fifty copies be printed. On the same day the congressional committee charged with an examination of his accounts were relieved, and the subject was referred to the board of treasury.

In May, General Arnold appealed from the report of the board of treasury to congress, and a few days after the affair was referred to a committee of three; but his accounts were never adjusted, and his treason, developed in September following, put an end to the investigation.

The present volume is from the original edition of 1780, printed by Francis Bailey, in a folio tract of fifty-five pages, and is reproduced without change or addition, excepting by way of Introduction and notes.

PROCEEDINGS

OF A

General Court Martial of the Line,

HELD AT

Raritan, in the State of New-Jersey,

By Order of His Excellency

GEORGE WASHINGTON, Esq.

General and Commander in Chief of the Army of
The United States of America.

FOR THE TRIAL OF

MAJOR GENERAL ARNOLD,

June 1, 1779.

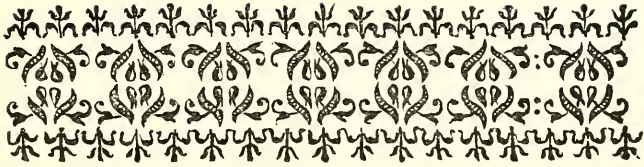
Major General HOWE, Prefident.

PUBLISHED BY ORDER OF CONGRESS.

PHILADELPHIA:

PRINTED BY FRANCIS BAILEY, IN MARKET-STREET.

M. DCC. LXXX.



P R O C E E D I N G S

OF A

GENERAL COURT MARTIAL, &c.

Major General HOWE, *President.*

Brigadiers General SMALLWOOD,

KNOX,

WOODFORD,

IRVINE ;

Colonels MOYLAN,

WOOD,

HARRISON,

HALL,

GUNBY,

BUTLER ;

Lieutenant colonels HARMAR,

SIMMS,

POPKINS, *Members.*

JOHN LAURANCE, *Judge Advocate.*

THE court having met, the judge advocate produced his excellency the commander in chief's order, dated May 29, 1779 ; which being read, is as follows :

Head-

Head-Quarters, Middletown, May 29, 1779.

A general court martial of the line is to be held on Tuesday next, the first of June, at the usual place, for the trial of Major General Arnold, as directed by a resolution of the honorable the congress, passed the third of April, 1779.

Major General HOWE, *President*. Brigadiers General Smallwood, Knox, Woodford and Irvine; Colonels Wood, Harrison, Hall, Gunby, Moylan and Butler; Lieutenant Colonels Popkins, Simms and Harmar, *Members*.⁽¹⁾

Before the court was sworn, Major General Arnold peremptorily objected to Brigadier General Irvine, Colonel Butler, and Lieutenant Colonel Harmar; which objection was allowed by the court. The president and members then adjourned the court until to-morrow ten o'clock.⁽²⁾

December 23, 1779.⁽³⁾

The court met at Morristown, in the state of New-Jersey, composed of the following officers:

Major General HOWE, *President*.

Brigadiers General MAXWELL,

KNOX,

GIST,

Colonels DAYTON,

BRADLEY,

CORTLANDT,

HALL,

SHERBURNE,

JACKSON,

SPENCER,

GUNBY;

Lieut. Col. Comm. WEISENFELDT, *Members*.

JOHN LAURANCE, *Judge Advocate*.

The

The judge advocate produced his excellency the commander in chief's orders respecting the court; which being read, are as follows:

Head-Quarters, Middlebrook, June 2, 1779.

The meeting of the court for the trial of Major General Arnold, is deferred until further orders, the exigency of the public service not permitting it to fit at this time.

Head-Quarters, Morristown, December 19, 1779.

The general court martial appointed the 29th of May, for the trial of Major General Arnold, whereof Major General Howe is president, is directed to meet at this town the 20th instant, to resume the trial. The court will consist of Major General Howe, president; Brigadiers General Maxwell, vice Woodford, absent; Smallwood, Knox, and Stark, vice Irvine, challenged; Colonel Bradley, vice Ward, absent; Humpton, vice Harrison, absent; Hall, Gunby, Cortlandt, vice Moylan, absent; Hazen, vice R. Butler, challenged; Dayton, vice Popkins, absent; Sherburne, vice Harmar, challenged.(+)

Head-Quarters, Morristown, December 21, 1779.

The general court martial, whereof Major General Howe is president, will assemble to-morrow, at Norris's tavern, in Morristown. Brigadier General Gift is appointed a member of the court, vice Brigadier General Smallwood, who is obliged to be absent. General Stark being indisposed, Colonel Spencer is added as a member.

Head-Quarters, Morristown, December 22, 1779.

AFTER ORDERS.

The general court martial, whereof Major General Howe is president, to fit to-morrow morning ten o'clock, at Norris's
tavern,

tavern. Colonel Jackson is appointed a member, vice Colonel Hazen; and Lieutenant Colonel Commandant Weisenfeldts, Vice Colonel Humpton, on command.(5)

The president, members and judge advocate being sworn, agreeable to the rules and articles of war, the judge advocate produced the proceedings of the council of the state of Pennsylvania, relative to Major General Arnold, dated February 3, 1779, and a resolution of the honorable the congress, dated April 3, 1779; which being read, are as follows :(6)

IN COUNCIL.

Philadelphia, February 3, 1779.

PRESENT,

His Excellency JOSEPH REED, Esq., *President.*

The Honorable GEORGE BRYAN,(7) Esq., *Vice President.*

Colonel JOSEPH HART,

JOHN MACKY,

JAMES M'LENE,

JAMES READ,

JOHN HAMBRIGHT, and

THOMAS SCOTT, *Esquires.*

This board having maturely considered the general tenor and course of the military command exercised by Major General Arnold in this city and state, and divers transactions which have appeared to this board during his command, *do resolve unanimously.*

First. That the same hath been in many respects oppressive to the faithful subjects of the state, unworthy of his rank and station, highly discouraging to those who have manifested their attachment to the liberties and interests of
America,

America, and disrespectful to the supreme executive authority of the state.

Wherefore, *resolved unanimously,*

Second, That nothing but the most urgent and pressing necessity can justify or induce this board to call forth any waggons or militia, or otherwise subject the good people of this state to the power and command of the said General Arnold within the state, should he resume it upon his return.

Third, Ordered, That the attorney general do prosecute the said General Arnold, for such illegal and oppressive conduct as is cognizable in the courts of law.

And, that this board may not be supposed capable of passing the above resolves upon mere general grounds, and more especially in the case of one who has formerly distinguished himself in public service, they think proper to declare, that the consideration last mentioned has hitherto restrained them from taking proper notice of General Arnold, hoping that every unworthy transaction would be the last, or that a becoming sense of such improprieties would effect an alteration of conduct. But finding that tenderness has only led to insult and farther oppression, duty to the state, regard to the interest and happiness of the good people thereof, who must be affected by all abuses of power, oblige us thus to take notice thereof; and farther declare, that the said resolves are founded upon the following articles, in which they have sufficient ground to esteem General Arnold culpable.

First. That while in the camp of General Washington at Valley Forge, last spring, he gave permission to a vessel belonging to persons then voluntarily residing in this city with the enemy, and of disaffected character, to come into a port of the United States, without the knowledge of the
authority

authority of the state, or of the commander in chief, though then present.

Second, In having shut up the shops and stores on his arrival in the city, so as even to prevent officers of the army from purchasing, while he privately made considerable purchases for his own benefit, as is alledged and believed.

Third, In imposing menial offices upon the sons of freemen of this state, when called forth by the desire of congress to perform militia duty; and when remonstrated to hereupon, justifying himself in writing, upon the ground of having power so to do; for that, “when a citizen assumed the character of a soldier, the former was intirely lost in the latter; and that it was the duty of the militia to obey every order of his aids (not a breach of the laws and constitution) as his (the general’s) without judging of the propriety of them.”

Fourth, For that, when a prize was brought into this port by the *Convention* brig, of this state, whereupon a dispute arose respecting the capture, which would otherwise in great probability have been amicably adjusted between the claimants, General Arnold interposed by an illegal and unworthy purchase of the suit, at a low and inadequate price, as has been publicly charged by a reputable citizen; to which may in some degree be ascribed the delay of justice in the courts of appeal, and the dispute in which the state may probably be involved with congress hereupon.

Fifth, The appropriating the waggons of this state, when called forth upon a special emergency last autumn, to the transportation of private property, and that of persons who voluntarily remained with the enemy last winter, and were deemed disaffected to the interests and independence of America.

Sixth,

Sixth, In that, congress by a resolve of the twenty-first of August last, having given to the executive powers of every state, an exclusive power to recommend persons desirous of going within the enemy's lines, to the officer there commanding, General Arnold, in order, as may reasonably be inferred, to elude the said resolve, wrote a letter, as appears by comparison of hands and the declaration of the intended bearer, recommendatory for the above purpose, and caused his aid de camp, Major Clarkson, to sign the same. But the said device not taking effect, through the vigilance of the officers at Elizabethtown, General Arnold, without disclosing any of the above circumstances, applied to council for their permission, which was instantly refused, the connection, character and situation of the party being well known and deemed utterly improper to be indulged with such permission, thereby violating the resolve of congress, and usurping the authority of this board.

Seventh, This board having, upon the complaint of several inhabitants of Chester county, through the late waggon master general, *requested* of the said General Arnold to state the said transaction respecting the waggons, in order that they might satisfy the complainants, or explain the same without farther trouble, received in return an indecent and disrespectful refusal of any satisfaction whatsoever.

Eighth, The discouragement and neglect manifested by General Arnold, during his command, to civil, military and other characters, who have adhered to the cause of their country — with an entire different conduct towards those of another character, are too notorious to need proof or illustration. And if this command has been, as is generally believed, supported at an expence of four or five thousand pounds

pounds per annum to the United States, we freely declare we shall very unwillingly pay any share of expenses thus incurred.

Extract from the minutes,
T. MATLACK, *Secretary*.

IN CONGRESS.⁽⁸⁾

3 April, 1779.

Resolved, That His Excellency Joseph Reed's letter to congress of the 25th January, 1779, and General Arnold's letter of 8th and 12th February, and the resolves therein contained of the executive council of Pennsylvania, be, with the evidence which hath been collected and reported by the committee on those letters, transmitted to the commander in chief; and that he be directed to appoint a court martial on the first, second, third, and fifth articles contained in the said resolves of the said executive council, the said articles only being cognizable by a court martial; and that the reference be notified to the supreme executive council, and they be requested to furnish the evidence to the court martial.

Extract from the minutes,
CHARLES THOMSON, *Secretary*.

Major General Arnold requested that the proceedings of the council of the state of Pennsylvania, dated January 18 and 21, 1779, and His Excellency President Reed's letter to the honorable the congress, dated January 25, 1779, might be produced. The judge advocate, at the desire of the court, produced them; which being read, are as follow:

In

IN COUNCIL.

Philadelphia, January 18, 1779.

A representation having been made by Colonel Andrew Boyd, waggon master of the county of Chester, through James Young, Esq., waggon master general, to this board, That Jeffe Jordan, a deputy waggon master, was sent by Colonel Boyd, with a brigade of twelve waggons, to Philadelphia, under the waggon law of this state, to convey provisions from thence to New Windsor, in consequence of orders from him (the waggon master general) of the 27th September last; and that, when the said Jordan returned home, he informed Colonel Boyd, that when he arrived in Philadelphia with his brigade, he applied to John Mitchell, Esq., deputy quarter master general, for loading, who sent him with his brigade to Eggharbour without loading, with orders to load merchandise there of private property, and return with it to Philadelphia, which he did; that the loading was delivered there into private stores. On consideration,

Ordered, That Mr. Mitchell be requested to state to council, in writing, the transaction relating to Jordan's brigade of waggons, sent by him to Eggharbour, ascertaining the property, or to whom the same was delivered.

Extract from the minutes,

T. MATLACK, *Secretary.*

*Quarter master general's office, }
Philadelphia, January 19, 1779. }*

SIR,

I this day received an order, signed by the secretary of the honorable council of this state, requesting I would give

B

them

them information respecting a brigade of waggons under the conduct of Jesse Jordan, a waggon master from Chester county, the council having been informed that I sent them to Eggharbour, to convey private property to this city. I shall at all times be ready to give your excellency and the honorable council every information you think necessary for the good of the public, or this state in particular, which relates to my office, or the business of the department, as I have no desire to conceal any part of my conduct as a public officer, having conducted the business under my direction with integrity, and justice to the public. The following are the state of the facts required, viz :

In the month of October last, at the time the enemy had landed some troops at Eggharbour, General Arnold desired I would furnish him with a brigade of teams, which he wanted to send to the Jerseys, and, that he would pay the hire of them, they being wanted to remove property which was in imminent danger of falling into the hands of the enemy. I informed him, he should have the waggon master of the first brigade which could be spared from public service, sent to him, when he would give such orders as he pleased. Accordingly, about the 22d of October, Mr. Jordan was sent to the general, to receive his directions, having at that time sent forward a large supply for the army, &c. When Jordan returned, he was desired to make out his account to General Arnold, to be paid. I do not know where the loading was stored, nor whose property it was, further than what is before mentioned. A greater number of continental teams coming in than I expected, enabled me to comply with General Arnold's request, without any inconvenience to the service. If there is anything further, in
which

which I can satisfy your excellency and the council, I will wait on you at any time with pleasure.

I have the honor to be, with great respect

Your excellency's most obedient

And most humble servant,

JOHN MITCHELL, *D. Q. M. G.*

His Excellency Joseph Reed, Esq., *President of the state of Pennsylvania.*

Copy.

T. MATLACK, *Secretary.*

IN COUNCIL.

Philadelphia, January 21, 1779.

Council having received from John Mitchell, Esq., deputy quarter master general, a state of the transaction, in pursuance of the resolve of council of the 18th instant, by which it appears he acted therein in consequence of orders from Major General Arnold.(9)

Ordered, That the secretary make out a copy of said minute, with Mr. Mitchell's state, and transmit them to Major General Arnold, requesting him to inform this board, whether the property for which the said waggons were ordered, was public or private: If the latter, to whom the same belonged; and farther to inform this board, by virtue of what resolve of congress, or other authority, public waggons of this state were sent into another state, to do business merely of a private nature.

Ordered, Also, That the quartermaster general be desired to order Jesse Jordan, a waggon master in his employ, to attend this board, to satisfy them with respect to the employ of the public waggons of this state, in September last.

Extract from the minutes,

T. MATLACK, *Secretary.*

Philadelphia,

Philadelphia, January 25, 1779.

GENTLEMEN,

I received a letter from Mr. Timothy Matlack, your secretary, of the 22d instant, inclosing an order of council of the 18th, Colonel Mitchell's answer of the 19th, and a subsequent order of council of the 21st instant.

I think it very extraordinary, that after Colonel Mitchell had, by his letter of the 19th, so fully and clearly answered the requisition of council in their order of the 18th, they should have passed the order of the 21st. In answer I shall only say, that I am at all times ready to answer my public conduct to congress or General Washington, to whom alone I am accountable.

I am, Gentlemen,

Your most humble servant,

B. ARNOLD.

To the President and Council of the state of Pennsylvania.

Copy.

T. MATLACK, *Secretary.*

IN COUNCIL.

Philadelphia, January 25, 1779.

SIR,

This board, which by its duty and station is bound to protect the rights and interests of the good people of this state, having received a complaint from Mr. Andrew Boyd, in behalf of himself and others, that the public waggons of the state, when called forth under the waggon law, have been employed in the transportation of private property, requested of John Mitchell, Esq., D. Q. M. G., the reasons of such conduct. Mr. Mitchell, admitting the fact, alledged in justification, that the waggons had been so employed by the direction of General Arnold, then the military commanding

manding officer of this state. This board having thereupon transmitted to General Arnold a copy of their proceedings, with Mr. Mitchell's answer, and requested General Arnold to give us a state of the transaction, he this day returned for answer, "That he was at all times ready to answer for his public conduct to congress or General Washington, to whom alone he was accountable."

The indignity offered to us upon this occasion, as well as a due regard to the violated rights of the freemen of this state, calls upon us to resent such treatment, and in their names we shall call upon the delegates of the United States for justice, and reparation of our authority, thus wounded by one of their officers: But as we learn that Gen. Arnold is about to depart this city for some time, and may thereby elude enquiry into this transaction, as well as some others under our consideration, we request he may be detained till the whole proceedings can be laid before you in form, and that he forbear exercising any further command in this city, until the charges against him are examined.

I am, Sir,

Your obedient humble servant,

JOS. REED, *President.*

Honorable John Jay, Esq., *President of Congress.*

After these papers were read, the judge advocate exhibited as charges against Major General Arnold, the first, second, third, and fifth articles contained in the proceedings of the council of the state of Pennsylvania, to which the general pleaded *Not Guilty*.

In support of the first charge, the judge advocate produced a protection given by Major General Arnold, to Captain Robert Shewell, Junior, and others, for the schooner Charm-

ing

ing Nancy, dated, camp, Valley Forge, June 4, 1778, which being read, is as follows :

Whereas, Capt. Robert Shewell, Junior, merchant of the city of Philadelphia, in behalf of himself and company, has this day made information to me, that himself and company have a certain schooner called the *Charming Nancy*, New England built, about seventy-five tons burthen, now lying before the city of Philadelphia, which schooner William Moore is master, loaded with salt, linens, woollens, glafs, loaf fugar, and bohea tea, nails, &c., configned to William Shirtliff, supercargo on board ; which property, they were of opinion, was not safe at Philadelphia, and as friends to their country, wished to have a protection for said vessel and cargo, that the same might be brought into some port in the United States of America.

In full confidence of their upright intentions, I do hereby grant said Robert Shewell, Junior, and company, protection for said vessel and cargo. And said schooner is hereby permitted to sail into any of the ports of the United States of America, and all officers and soldiers of the continental army, and other persons, are hereby forbid to give any umbrage or molestation to the said Captain Moore, or the said vessel and cargo.

Given under my hand, camp, Valley Forge, 4 June, 1778.

B. ARNOLD, *M. Gen.*

To whom concerned.

Major General Arnold admitted that he gave the protection while in the camp of His Excellency General Washington at Valley Forge, without the knowledge or the authority

authority of the state of Pennsylvania, or the commander in chief, though then present.

To prove the character and residence of the persons to whom the protection was given, the judge advocate produced Timothy Matlack, Esq., who, on his affirmation, says :

Q. Do you know the character of the person to whom General Arnold gave permission ?

A. Generally, I do.

Q. What was his character at the time ?

A. Captain Robert Shewell, Junior, was, at the time of that pass being given, generally reputed not to be well affected to the United States of America, as I understand. Captain Robert Shewell, Junior., informed me, that he was ordered to leave Gen. Washington's camp, in consequence of the character that had been given of him ; and upon his appearing on parade afterwards, he was ordered to leave General Washington's camp on pain of imprisonment.

Q. Did Captain Robert Shewell, Junior, reside in Philadelphia at that time ?

A. He informed me he did voluntarily reside there at the time.

Q. Court. Do you know whether General Arnold knew Captain Robert Shewell, Junior's, general character at the time he gave the permission ?

A. I do not.

Q. Court. Do you know whether General Arnold knew of Captain Shewell's being ordered to leave the camp of General Washington, previous to his having given him the permit ?

A. I had no opportunity of being acquainted with the circumstances of the case.

Q.

Q. Do you know the persons who were concerned in the vessel with Captain Shewell at that time?

A. It was supposed Mr. Shirtliff was concerned, and several others, whose characters I know nothing of and can not give; and it was supposed that General Arnold was concerned in the vessel or cargo.

Q. Do you know Mr. Shirtliff's character?

A. So little as not to be able to give his character generally.

General Arnold's question. What conversation introduced Captain Shewell's mentioning to you, his being ordered from the camp of General Washington? and did he tell you the reason of it?

A. I believe the conversation took its rise from Mr. Shewell's mentioning to me, that he was likely to be treated ill, upon a charge of his having ill treated Mr. Paul Fooks at the coffee house in Philadelphia, while the enemy had possession of the city. The reason he assigned to me, for his being ordered to leave General Washington's camp, was, he supposed he had been represented to General Washington as being unfriendly to America.

General Arnold's question. Have you understood, that upon several alarms Captain Shewell turned out with the militia, and did duty with them?

A. I know nothing of that matter.

Q. Did you consider Captain Robert Shewell, Junior, at the time the protection was given, to be unfriendly to the United States of America?

A. I did.

The court adjourned until to-morrow eleven o'clock.

December,

December 24.

The court met, according to adjournment.

Timothy Matlack, Esq., on his affirmation, says, That some time during the enemy's having possession of the city of Philadelphia, information was given to the board of war, that property belonging to Captain Robert Shewell, Junior, was arrived in Virginia, part of a vessel and cargo in which the Wykoffs, one or more of that family, was concerned. Upon the representation being made, an order was issued for their being seized, as belonging to Captain Robert Shewell, Junior, who was deemed unfriendly to the United States of America. They were seized on that order, and were detained: the length of time he can not ascertain; neither does he know of their being delivered up to this day. This information he received from Mr. Shewell and from Mr. Isaac Wykoff.

Q. Court. Was this order issued by the board of war before Captain Robert Shewell, Junior, obtained the permission of General Arnold.

A. Most probably several months.

Q. Do you know whether General Arnold knew of the board of war having issued the order respecting the seizure of Captain Shewell's property?

A. I know of no circumstance that should afford me an opportunity to judge concerning that.

Q. Court. Where did the board of war sit at the time?

A. I suppose at Yorktown.

Q. Court. Do you know where General Arnold was at that time?

A. I do not, further than it was a general knowledge that he was with the army at the northward.

In support of the second charge, the judge advocate pro-

duced His Excellency General Washington's instructions to Major General Arnold, dated June 18, 1778, a resolution of the honorable the congress, dated June 5, 1778; and a copy of a proclamation issued by Major General Arnold, dated June 19, 1778; which being read, are as follows:

To MAJOR GENERAL ARNOLD.

SIR,

You are immediately to proceed to Philadelphia, and take the command of the troops there. You will find the objects of your command specified in the enclosed copy of a resolution of congress of the 5th instant. The means of executing the powers vested in you, I leave to your own judgment, not doubting that you will exercise them in the manner which shall be found most effectual, and, at the same time, most consistent with the rights of the citizens.

I have directed the quarter master general, commissary general and clothier general to send proper persons in their respective departments into the city, to take possession, for the use of the army, of all public stores left in the city by the enemy, which may not properly fall under the description of the enclosed resolve. In the execution of this duty, they will act under your directions and with your assistance.

Given at head quarter, this 18th day of June, 1778.

G. WASHINGTON.

IN CONGRESS.

June 5, 1778.

Resolved, That, should the city of Philadelphia be evacuated by the enemy, it will be expedient and proper for the commander in chief to take effectual care that no insult, plunder or injury of kind may be offered to the inhabitants of the said city. That, in order to prevent public or private injury,

injury, from the operations of ill disposed persons, the general be directed to take early and proper care to prevent the removal, transfer or sale of any goods, wares or merchandize in possession of the inhabitants of the said city, until the property of the same shall be ascertained by a joint committee, consisting of persons appointed by congress, and of persons appointed by the supreme executive council of the state of Pennsylvania; to wit: so far as to determine whether any or what part thereof, may belong to the king of Great Britain, or to any of his subjects.

Extract from the minutes,

CHARLES THOMSON,⁽¹⁰⁾ *Secretary.*

By the Honorable MAJOR GENERAL ARNOLD, Commander in chief of the forces of the United States of America, in the city of Philadelphia, &c.

A PROCLAMATION.

In order to protect the persons and property of the inhabitants of this city from insult and injury, to secure the public and private stores which the enemy may have left in the city, and to prevent the disorder and confusion naturally arising from want of government,

His Excellency General Washington, in compliance with the following resolution of congress, has thought proper to establish military law in this city and suburbs, until the civil authority of the state can resume the government thereof.

IN CONGRESS.

June 5, 1778.

[Here the above resolution was recited.]

In order the more effectually to carry into execution the above resolve, all persons having European, East or West
India

India goods, iron, leather, shoes, wines and provisions of every kind, beyond the necessary use of a private family, are ordered to make return of the same to the town major, by twelve o'clock to-morrow, specifying the quantity, and, as nearly as they can judge, the amount of the same, in order that the quartermaster, commissary and clothier generals may contract for such goods as are wanted for the use of the army, and until permission is given by the general, there be no removal, transfer or sale of any goods, as it will be deemed a breach of the above resolution of congress, and such goods will be seized and confiscated for the public use.

All persons having in their hands public stores or effects the property of the subjects of the king of Great Britain or their adherents, who have departed with them, are to make a like report by Monday noon next, under penalty of the confiscation of their own effects, and any persons discovering such concealed stores or effects will be suitably rewarded.

Any persons harbouring or concealing any officer, soldier or other person belonging to the enemy, or any deserter from the continental army, will be severely punished, unless they make immediate discovery to some officer of the said army.

Given at head quarters, in the city of Philadelphia, June 19, 1778.

B. ARNOLD, *Major Gen.*

By his honor's command.

DAVID S. FRANKS,⁽¹¹⁾ *Secretary.*

Major General Arnold admitted, that on his arrival in Philadelphia, the shops were shut by his orders, and the officers of the army in consequence of them, prevented from purchasing.

The judge advocate then produced the deposition of
Colonel

Colonel John Fitzgerald, dated May 7, 1779, which being read, is as follows :

On the seventh day of May, A. D. 1779, before me, Plunket Fleeſon, Eſq., one of the juſtices, &c., for the city of Philadelphia, comes Colonel John Fitzgerald, late aid de camp to His Excellency General Washington, and being duly ſworn according to law, depoſeth and ſaith : That on the evening of the day on which the Britiſh forces left Philadelphia, he and Major David S. Franks, aid de camp to Major General Arnold, went to the houſe of Miſs Brackenberry, and lodged there that night ; that the next morning, Major Franks having gone down ſtairs, the deponent going into the front room of the ſaid houſe, to view Colonel Jackſon's regiment then marching into the city, ſaw lying in the window two open papers ; that on caſting his eye on one of them, he was ſurprized to find it contained inſtructions to the ſaid Major Franks to purchaſe European and Eaſt India goods in the city of Philadelphia, to any amount, for the payment of which the writer would furniſh Major Franks with the money, and the ſame paper contained alſo a ſtriſt charge to the ſaid Franks not to make known to his moſt intimate acquaintance, that the writer was concerned in the propoſed purchaſe ; that theſe inſtructions were not ſigned, but appeared to the deponent to be in the hand writing of Major General Arnold, whether or not there was a date to it the deponent doth not recollect ; that the other paper contained inſtructions ſigned by Major General Arnold, directing Major Franks to purchaſe for the ſaid General Arnold, ſome neceſſaries for the uſe of his table ; that the deponent compared the writing of the two papers, and verily believes they were both written by Major
General

General Arnold's own hand ; that soon afterward Major Franks came into the room and took the papers away, as the deponent supposes. And further the deponent saith not.

JOHN FITZGERALD.

Sworn before me the date aforesaid.

PLUN. FLEESON.

Question by General Arnold to Timothy Matlack, Esq. Is the deposition of Colonel Fitzgerald, in your hand writing?

A. Yes ; it was dictated to me by Colonel John Fitzgerald, and while in the rough by him altered and amended, and afterwards copied fair. The next day he called at my house, and informed me he had seen you, in consequence of your request ; that there was one or two alterations he wished to make, in consequence of the conversation with you, which alterations are interlined, and written precisely in the words he dictated, having I believe written them on a piece of paper, before me. Colonel Fitzgerald was a perfect stranger to me, having to the best of my knowledge never seen him before to know him.

The judge advocate produced Major Franks, aid de camp to Major General Arnold, who was sworn.

Q. On General Arnold's arrival in Philadelphia, do you know whether himself or any person on his account, made any considerable purchases of goods ?

A. I do not.

Q. At or before General Arnold's arrival in Philadelphia, did you receive orders from General Arnold to purchase goods, or do you know of General Arnold's having given orders to any other person to make purchases of goods ?

A. I did receive from General Arnold, that paper which Colonel Fitzgerald has mentioned in his deposition. There are

are circumstances leading to it which I must explain. I had, by being in the army, injured my private affairs very considerably, and meant to leave it, if a proper opportunity of entering into business should happen. I had several conversations on the subject with General Arnold, who promised me all the assistance in his power; he was to participate in the profits of the business I was to enter into. At that time, previous to our going into Philadelphia, I had several particular conversations with him, and thought that the period, in which I might leave the army with honour, and enter into business. I received at that time, or about that time, I think several days before the enemy evacuated the city, the paper mentioned in Colonel Fitzgerald's deposition that was not signed, as well as the other. Upon our coming into town we had a variety of military business to do. I did not purchase any goods, neither did I leave the army. The paper was entirely neglected, neither did I think any thing concerning it, until I heard of Colonel Fitzgerald's deposition. General Arnold has told me since, which is since I came from Carolina sometime in August last, on speaking about the paper, that the reason for his not supporting me in business was, supposing that I had left the army, it was incompatible with his excellency's instructions and the resolution of congress.

Q. Court. Did General Arnold ask you upon his coming into Philadelphia, or at any time after, why you had not executed the contents of the paper?

A. He did not.

Q. Court. What day did you arrive in Philadelphia?

A. The 18th day of June, in the evening, the day the enemy left Philadelphia.

Q. Court. Are you certain that the order for purchasing the

the goods was given to you several days before you went into Philadelphia ?

A. I can not be particular as to the time ; it might have been three, four, five or twenty days ; but it was some time before.

Q. Previous to the enemy evacuating the city of Philadelphia, did you understand from General Arnold that he was to have the command in the city, on the evacuation taking place ?

A. I did ; but it was a short time before, I believe a day or two. The general, on his return from head quarters, mentioned it was hinted to him at General Washington's, that he should, when the enemy evacuated Philadelphia, have the command, and desired me not to mention it.

Q. Were the instructions to purchase goods given to you before the general mentioned this matter to you ?

A. I believe they were, though I am not certain.

General Arnold's question. Were not my minute and invoice books always open to your inspection ?

A. They were.

Q. By do. Had you any reason to suppose that any purchases were made directly or indirectly by my orders or on my account, previous to the opening of the stores ?

A. No.

Q. By do. Did you not suppose my showing you the instructions from General Washington to me, previous to your going into the city, a sufficient countermand of the order I had given you to purchase goods ?

A. I did not form any supposition on the subject.

Q. By do. For what purpose were you sent into the city before me ?

A.

A. To procure quarters, and to provide necessaries for the family.

In support of the third charge the judge advocate produced Timothy Matlack, Esquire's letter to Major General Arnold, dated October 5; the general's answer, dated October 6; Mr. Matlack's letter dated October 10; and the general's answer of the 12th of October, 1778; which were read, and are as follows:

Philadelphia, October 5, 1778.

SIR,

The militia serjeant who attended at your quarters on Sunday, complains that Major Franks, one of your aids, had given him orders to call his barber, which order was obeyed; that on the barber not appearing the order was repeated, and the serjeant, though hurt both by the order itself, and the manner of it, again obeyed; he also informs me, that he has, this morning, made you acquainted with this complaint, and that you had been pleased to say, that every order given by you or your aids, is to be obeyed. This, I suppose, must intend every proper order.

The militia of the several states have, occasionally, rendered the great cause in which we are engaged such services, as must convince every man that it is of very great importance to treat those who are necessarily called out, in such manner as to make the duty as agreeable to them as is consistent with the service to which they are called: For it is upon their will, more than upon the force of any law, that we are to depend for their assistance in the time of need. The severity of military discipline in such a case as that above mentioned, where no important end is to be answered by it, must make every freeman feel. At a time

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when

when you were one of the militia of the state of which you are a citizen, what would have been your feelings, had an aid of your commanding officer ordered you to call his barber? From your feelings in such a case, it will be easy to judge of that of other men. Freemen will be hardly brought to submit to such indignities; and if it is intended to have any of the respectable citizens of a state, in service in the militia, military discipline in such instances must be relaxed; but if it is an object to render the militia in the several states contemptible and useless, the continuance of such treatment will probably effect it. Military duty of every kind is rather disagreeable; and perhaps, to freemen, garrison duty more disagreeable than any other. The serjeant above mentioned entered the service to discharge his duty, and as an example to other young men of the city, and not from necessity, in any sense of the word.

It appears to me a duty which I owe to the public, to represent this matter to you in a respectful manner, in expectation that, from attachment to the public interest, you will give such orders as will prevent any farther complaints of this kind, which is all the satisfaction sought after, either by the serjeant, who is my son, or,

Sir, your most obedient humble servant,

T. MATLACK.

Major General Arnold.

Philadelphia, Oct. 6, 1778.

SIR,

I am to acknowledge the receipt of your letter of yesterday, respecting the militia serjeant who complains of being ill treated. No man has a higher sense of the rights of a citizen and freeman than myself: they are dear to me, as I
have

have fought and bled for them, and as it is my highest ambition and most ardent wish to resume the character of a free citizen, whenever the service of my country will permit. At the same time I beg leave to observe, that whenever necessity obliges the citizen to assume the character of a soldier, the former is intirely lost in the latter, and the respect due to a citizen is by no means to be paid to the soldier, any farther than his rank intitles him to it. This is evident from the necessity of military discipline, the basis of which is implicit obedience, and however the feelings of a citizen may be hurt, he has this consolation, that it is a sacrifice he pays to the safety of his country.

You are pleased to ask, "What my feelings would have been on a similar occasion." They have been tried; I have served a whole campaign under the command of a gentleman who was not known as a soldier until after I had been some time a brigadier: My feelings were hurt not only as a citizen, but more so as a soldier; they were however sacrificed to the interest of my country. The event proved unfortunate to me; but I have the satisfaction to think I rendered some service to my country.

I wish to make the duty as agreeable to the militia as is consistent with the good of the service, for which purpose military discipline has been greatly relaxed; was it executed with strictness, most of the militia, from their inattention, would feel the effects of it.

I can not think (as you seem to imagine) any indignity is offered to the citizen, when he is called upon to do the duty of a soldier in the station he is in, which was the case of the serjeant; who though he may be a more respectable character as a citizen, yet, as an orderly serjeant, it is his duty to obey every order of my aids, not a breach of the

laws

laws or principles of the constitution, as mine, without judging of the propriety of them; neither can I have any idea from the militia's being put on the same footing as the standing army, they will refuse their assistance, as self preservation is the first principle of human nature, theirs will ever induce them to turn out and defend their property.

These, Sir, are the sentiments of a soldier, a citizen, and of, Sir,

Your obedient humble servant,
B. ARNOLD.

SIR,

I received your letter of the 6th instant; and it gives me real and great pleasure to be informed of your patriotic behaviour in the case you mention. Such conduct is the effect of genuine spirit and true greatness of mind; but it is very different from the case I stated. You obeyed, because the essential interest of your country was concerned, and a regard to your own fame required it; but the same principles, which induced this conduct, would have induced you to spurn at commands dictated by pride and insolence.

I can not bring myself to believe, that the respect due to the citizen is entirely lost when he takes upon himself the character of a soldier: I entertain a higher sense of the rights of citizens and freemen.

If, on the one hand, soldiers are bound implicitly to obey military orders, so, on the other hand, are officers accountable for the orders which they give; and their propriety or impropriety often depend entirely on time and circumstance. Occasions may occur in which an officer may justify commands which expose a citizen to certain death; but I know of none which would justify a command to a citizen serving in the militia to clean his officers shoes

shoes. The necessity of implicit obedience on the part of the citizen, when in military service, is so far from being ground, on which to justify every command which may be given, that it is the strongest possible reason, why an officer should be very cautious and circumspect in his orders; and it also lays the citizen under a necessity of calling officers to a strict account for the orders which they give. I will venture to say, that, in a free government, implicit obedience will not be submitted to much longer than commanders use their authority with great prudence and discretion; and, if it be really necessary, commanders, who destroy it, by degrading and unnecessary orders, they will be accountable for the consequences. You say it is the duty of an orderly serjeant “to obey every order of your aids “(not a breach of the laws or principles of the constitution) “as yours, without judging of the propriety of them.” This sentiment must have dropt from your pen in a moment of haste; as it appears to me to be a sentiment improper to be entertained either by the citizen or soldier: For even common soldiers retain some right to judge of the propriety of the orders which they have obeyed; and to demand satisfaction in cases where improper or unnecessary orders have been given: And freemen will judge for themselves and speak for themselves with decency and firmness when the occasion requires it. The calling of Major Frank’s barber to dress his hair, was the office of a menial servant, not the duty of a soldier; and I still think it an indignity to a free citizen to be ordered to go on such an errand. Such commands cannot be mistaken for and obeyed as the orders of a wise and prudent general.

My letter to you was written for the single purpose of preventing orders being inadvertently given, which would
 offend

offend a militia who have suffered greatly many ways ; and I had a hope, that you would have thought it proper to have given some assurance that attention would have been paid to this, as it appears to me, necessary precaution ; but I am not a little mortified to find the order, of which I complained, so fully justified and supported by you. If it is your intention, as commanding officer, to countenance orders of this kind, it is my duty, as a father, to withdraw my son from a service in which commands are to be given him which to obey would lessen him in the esteem of the world ; and I shall consider it as a duty which I owe to myself to acquaint my fellow citizens of my reason for so doing.

I am, with sentiments of great respect, Sir,

Your most obedient and very humble servant,

T. MATLACK.

Philadelphia, October 10, 1778.

Major General Arnold.

SIR,

By your letter of the 10th, I perceive that my sentiments are not clearly understood ; but it is needless to discuss a subject which will perhaps be determined more by the feelings than the reason of men. If the declaration, that you will withdraw your son from the service, and publish the reasons, is intended as a threat, you have mistaken your object. I am not to be intimidated by a newspaper. To vindicate the rights of citizens, I became a soldier, and bear the marks upon me. I hope your candour will acquit me of the inconsistency of invading what I have fought and bled to defend. As I am earnestly desirous of closing this correspondence, I shall confine myself to what occasioned

sioned it. “An improper order,” as you conceive, “given by Major Franks, my aid de camp, to the orderly serjeant, your son.” Without examining into the propriety or impropriety of the order, about which we may differ, I perfectly agree with you, that the delivering of it in a haughty, imperious or insolent manner, is blameable; and if the serjeant had so represented it to me at the time, he would have had justice. The affair is now out of my hands, and lies between the serjeant and the major. If the latter hath behaved amiss, it is his duty to make reparation. I trust I never shall countenance pride or insolence to inferiors in him, or any other officer under my command. Let me add, that disputes, as to the rights of citizens and soldiers, in conjunctures like the present, may be fatal to both.

I am, Sir,

Your most obedient humble servant,

B. ARNOLD.

Philadelphia, October 12, 1779.

Timothy Matlack, Esq.

After the reading of these letters, the judge advocate produced Mr. William Matlack, who, having affirmed, says,

Q. Did you attend at General Arnold's quarters in Philadelphia as an orderly serjeant from the militia?

A. I did.

Q. Did you receive an order from Major Franks, aid de camp to Major General Arnold, while you attended in that station, to fetch a barber?

A. I received my first order from a servant girl, who came and asked me if I was an orderly serjeant? I told her I was. She said Major Franks' orders were, that I should fetch his barber; which order I obeyed, as supposing it to
come

come from him. Soon after my return, Major Franks came to where I was stationed, and asked me if I had been for his barber? I told him I had, but he was not at home, and that I had left the orders that were necessary for his coming up, as soon as he should come home. Major Franks then said, he did not believe he would come, and then went away. Some considerable time after, he came again, and said he did not believe he would come, and he believed I had better go again; to which I made no reply, but walking back in the entry, after a few minutes, I asked a negro man if it was customary to give such orders to the orderly serjeants? He said it was. I then replied, that Major Franks ought to consider, that the militia could not be expected to do such duty, or words to that purport. Major Franks then came out of a back room, and said, serjeant, I thought I had ordered you to go for my barber. I told him I had received no such order. He then asked me why I did not go? I told him I waited his orders. He then told me to go, and I told him, with his orders I would go, and did go. Major Franks, on my return, asked me if I had been? I told him I had, and left the same orders as before. In the morning I made a complaint to the general, nearly in them words; and he informed me it was customary for serjeants to do such duty; and gave me to understand, not in an abrupt manner, that if I did not like such duty, I should not have come there. The general said, at the time, that if Major Franks had insulted me at the time he gave me the order, it was wrong, and he did not approve of that.

General Arnold's question. Was any menial office imposed upon you, or upon any orderly serjeant, to your knowledge?

A. I conceived the office that was imposed on me as menial;

menial ; and the orderly serjeant who stood at the same time with me, belonging to the continental troops, complained of Major Franks giving him a small bundle of paper in his hand, bidding him follow him, which he did ; and upon his coming to a house a small distance off, bid him give him the bundle of papers and return ; which the man complained of to me, when he returned, as an insult.

The court adjourned till Monday, eleven o'clock.

December 27.

The court met, according to adjournment, and adjourned till to-morrow eleven o'clock.

December 28.

The court met, according to adjournment.

In support of the last charge, the judge advocate produced letters from Messrs. Chaloner and White, and John Mitchell, Esq., to the waggon master of the state of Pennsylvania, dated September 25, 26, and October 1st, 1778 ; which being read, are as follow :

(COPY.)

Philadelphia, September 25, 1779.

SIR,

We have received orders from head quarters, to lay in at New-Windfor,⁽¹¹⁾ a Magazine of 10,000 barrels of flour. It is of the utmost importance to the support of our army and the French fleet, that this order be immediately executed. We have requested of the quarter master general to call on you for 200 waggons. For this purpose, permit us to suggest to you the propriety of their being called from the counties adjacent to York, as they are all to be loaded by Mr. John M'Callister, at Yorktown, to whom we beg you would direct your deputies to order the waggon master to

E

apply

apply. We wish not to urge more on your department than it can comply with; but the many difficulties that will occur by delay in executing this order, oblige us to request of you to inform us how soon you can answer our drafts for the necessary waggons to complete it, and what number at a draft will be most convenient.

We are, with respect,

Your humble servants,

CHALONER and WHITE, A. C. of P.

To James Young⁽¹²⁾ Esq., *waggon master general of the state of Pennsylvania.*

Copy examined,

T. MATLACK, *Secretary.*

(COPY)

Philadelphia, Sept. 25, 1778.

SIR,

We are called on by his excellency and also by the commissary general for two hundred waggons immediately, to transport flour from York town and Carlisle to New Windsor—must therefore request and desire you will order two hundred good waggons to be furnished by the western counties, to transport the flour, &c., cross the country. As it is of the utmost consequence to have this requisition complied without delay, hope you will exert your influence and authority to procure the above number. A considerable number will also be wanted to forward provisions from Lancaster county and this city to the North river, at least four hundred.

I am, Sir,

Your most humble servant,

JOHN MITCHELL, D. Q. M. G.

To James Young, Esq., *waggon master general, Philadelphia.*

Copy examined,

T. MATLACK, *Secretary,*

(Copy)

(COPY)

Philadelphia, 26 September, 1778.

SIR,

Your favour of this day I have duly received, and have sent your letters to Lancaster, York and Carlisle by express. I am doubtful all the teams in York and Carlisle will be wanted to go to Pittsburg; therefore Lancaster must send the number to those places. Two hundred teams will be immediately wanted to convey the provisions from Lancaster, Lebanon and Rhemes-town, and four hundred to convey the provisions from this city to New Windsor. It is absolutely necessary they should be furnished without the least delay, as the consequences may be of the worst kind; the fleet and army depend on it, as the provisions provided for the army have been sent to the fleet.

If you cannot procure the teams immediately, please to inform us, that other steps may be taken.

I am, Sir,

Your most humble servant,

JOHN MITCHELL, D. Q. M. G.

To James Young, Esq., waggon master general, Philadelphia.

Copy examined,

T. MATLACK, *Secretary.*

(COPY.)

Philadelphia, October 1, 1778.

SIR,

There is the most pressing necessity for flour at camp. We assert, and from undoubted authority, that there is plenty at Trenton and Morristown. We therefore call on you for teams to transport the same. One hundred and fifty teams may be immediately loaded at each place, and as many

many may be constantly kept in employ from those places to camp, loading per week.

We are, Sir,

Your humble servants,

CHALONER and WHITE, A. C. of P.

N. B. Apply at Morristown, to Joseph Lewis; at Trenton, to Alexander Fleeb.

(COPY.)

SIR,

The above is a copy of a letter received this day; We are therefore obliged to call on you for a further supply of teams. The number required will be 300, exclusive of those already ordered. Must request you will furnish them as quick as possible. You will please to let us have your answer in writing.

I am, Sir,

Your humble servant,

JOHN MITCHELL, D. Q. M. G.

To James Young, Esq., *W. M. G. P.*, present.

Copy examined,

T. MATLACK, *Secretary*.

The Judge advocate also produced a remonstrance from the state of Pennsylvania, against the enormous waggon service, dated October 1, 1778; which being read, is as follows:

IN COUNCIL.

Philadelphia, October 1, 1778.

The council resumed the consideration of the demand made by the quarter master general of eight hundred waggon, besides what are now employed for the united states, and

and observed with astonishment, that is but a few weeks since a like demand was made for eight hundred waggons, which were impressed with great severity and irregularity, and the whole waggon service to the westward falls on this state, at a time when the country is drained of horses, and our waggons very generally disabled, destroyed, or carried off by the enemy, and considering also, that the waggons of this state are taken into other states at a great distance; thereupon,

Ordered, That the delegates of Pennsylvania be instructed to remonstrate to congress against the drawing out so great a number of our waggons and horses, and thereby throwing so great an over-proportion of this heavy and distressing service on Pennsylvania.

Extract from the minutes,

T. MATLACK, *Secretary*.

The judge produced an order from David S. Franks, aid de camp to Major General Arnold, to Jesse Jordan, waggon master; depositions of Jesse Jordan, David Cochran, John Boyd and Stephen Collins; which being read, are as follow:

(COPY.)

You will proceed immediately with your teams to Egg-harbour or the Forks, take the orders and directions of Captain Moore, whom you will obey in every particular.

By order of General Arnold,

DAVID S. FRANKS, Aid de Camp.

To Jesse Jordan, *waggon master*.

Copy.

T. MATLACK, *Secretary*.

(Copy)

(COPY.)

City of Philadelphia, ff.

Before Plunkett Fleeſon, Eſquire, one of the juſtices of the peace in and for the ſame city, comes Jeſſe Jordan ; who being duly ſworn, depoſeth and ſaith, That he, the deponent, on the ſixteenth of Oꝛtober laſt, and for ſome time before and after, was one of the waggon maſters for Cheſter county in this ſtate ; that upon that day he received orders from Andrew Boyd, waggon maſter general for Cheſter county, to proceed to Philadelphia with a brigade of waggons, twelve in number, and there take orders from the quarter maſter in Philadelphia, and proceed in purſuance of ſuch orders as he ſhould further direct, on the public ſervice ; that the brigade was called out to perform their tour of duty, under the waggon law of this ſtate ; (13) that he accordingly proceeded with the brigade to Philadelphia, drawing forage and rations on the way, on the written order of Andrew Boyd for that purpoſe ; that in Philadelphia, this deponent applied to Colonel John Mitchell, deputy quarter maſter general, for orders ; that Colonel John Mitchell ordered him to proceed to Mr. Reesburgh's office in Market-ſtreet, for orders to get a loading ; that Mr. Reesburgh's orders were to go down to one Coleman's to get a load of flour and bread, and proceed towards camp ; that deponent proceeded to Coleman's, and bad him prepare the loading, and deponent returned to his brigade and got it in readineſs to receive the loading ; that ſoon after one Mr. Ruſk or Luſk told the brigade they muſt go to Eggharbour, and deponent came down Cheſnut-ſtreet, and ſtopt the waggons before Colonel Mitchell's door, and deponent enquired of him where they muſt go, whether towards camp or to Eggharbour. Colonel Mitchell told them they might go to Eggharbour,

harbour, and to go to General Arnold and receive orders from him ; that he went accordingly to General Arnold, and soon after received the orders from his aid de camp in writing, signed David S. Franks, aid de camp ; that in obedience to those orders, he proceeded with the brigade of waggons empty to the forks of Eggharbour ; that until they arrived within about twenty or twenty five miles of the forks, the deponent was confident they were employed in the public service of the continent, and expected they were to take in a loading of public stores, and the first cause of his doubting it was, that they were denied provisions by the commissary of issues there, who took copies of General Arnold's and Mr. Boyd's orders, and said he was sure it was private property they were going for ; that if deponent had known they were going for private property, he would not willingly have gone, for that he was offered £4, a day, and to be found, or £6 : 5, and find himself, before he left home, to go to Indian river, but chose rather to go his tour of duty in the public employ ; that he proceeded with the brigade to the forks of Eggharbour, drawing provisions and forage as before, after copies had been taken of the two orders before mentioned ; that they loaded there with sugar, tea, coffee, six swivel guns, casks of nails, broad cloths, linens, chests, sail cloth, and some other articles, and brought them up to Philadelphia ; that they crossed the river loaded, and delivered part of their loading on this side the ferry, and the remainder at Stephen Collins's in Second-street, by order of Captain Moore, at the forks, to whom he was referred by the written orders of General Arnold, and who accompanied them up ; that deponent gave no receipt for goods, nor took any on their delivery, Captain Moore superintending the delivery in person ; for that he refused a receipt because he was not informed of any public store at which to deliver them,

them, and because the goods were so mixed and jumbled together ; that he has received no pay, but that on Saturday last he applied to Colonel Mitchell with his pay roll, in the usual form signed by Mr. Boyd, who gave him the order ; that Colonel Mitchell told him he would have nothing to do with it, deponent must apply to General Arnold, that he accordingly went to General Arnold, and gave him his pay roll, in which was charged 55*f.* a day, being the usual charge in public service ; that General Arnold looked at it, and told him to call again in the evening, and then either he would pay it, or Colonel Mitchell would ; that deponent returned to Colonel Mitchell and informed him of this ; Colonel Mitchell asked him how much forage he had drawn, that he (Mitchell) had got an account of his drawing one days forage from Mr. Smith the forage master, deponent told him to the best of his knowledge he had drawn from Smith for eight days ; that Colonel Mitchell sent up and got the account of eight days forage, and then bad deponent go and get his pay roll again from General Arnold and alter it ; that deponent told him he had drawn forage for the whole fourteen days he was out from home ; that Colonel Mitchell told him then, there must be a new pay roll made out ; that deponent thereupon went to General Arnold's, and brought back the first pay roll, and made out a new pay roll, and was ordered by Colonel Mitchell to charge 75*f.* a day, and go to General Arnold and receive it, and then go to the forage master Colonel Biddle, (he would shew him where when he returned) and pay him 20*f.* a day for the forage ; that deponent carried the new pay roll to General Arnold's, but he was gone out ; that deponent returned to Colonel Mitchell's, who was also gone out, and told his clerk of this ; that in making out his pay roll at Colonel Mitchell's before he went this time to General Arnold's,

Colonel

Colonel Mitchell said he should not charge or have pay for more than twelve days, (omitting two days of the fourteen) for that they were too slow coming from Chester, although in fact deponents brigade were in town the day before others, who set off a day before them ; that hereupon deponent took up his papers and was going away, and said he would not settle then ; Colonel Mitchell said he should make it out and settle it before he went away, or he (Colonel Mitchell) would make a prisoner of him, whereupon deponent complied through terror ; that since the notice above mentioned to Colonel Mitchell's clerk, deponent has made no farther application for his money ; that when deponent returned the second time from General Arnold's, he brought back the first pay roll to Colonel Mitchell, with a note wrapped round it, importing that General Arnold thought he ought only to pay from the day that the waggons left Philadelphia, till they returned thither, and that Colonel Mitchell might pay the remainder, and Colonel Mitchell wrote a note which he sent by his boy to General Arnold (as he said) informing him that he (General Arnold) must pay the whole ; that the teams of deponents brigade were appraised before they left home, and some of the horses got lamed in the journey ; that deponent came to town this time, not being sent for, in order to settle his account, expecting to be paid, as usual, by the public, for that he never heard from any person, before last Saturday, that he was to be paid any other way ; that some time since he received a letter from Mr. Boyd that Justice Young, the waggon master general wanted to see him about this affair, and desiring him to come to Philadelphia ; but that when he left home he set off for the head of Elk, not intending or thinking to come to Philadelphia, and after he was at the head of Elk, determined to come here for the sake of getting

his money ; that Colonel Mitchell told him the executive council wanted to see him ; that he had no other reason to think the public were to pay him, but that he was ordered out in his tour of duty by Mr. Boyd.

JESSE JORDAN.

Sworn 1st Feb. 1779, before me,
PLUN. FLEESON.

Copy examined.

T. MATLACK, *Secretary*.

Philadelphia, ff.

David Cochran, being duly sworn, maketh oath, That his team was one of those belonging to Jesse Jordan's brigade, above mentioned ; that he drove it himself ; that there were twelve teams in number ; that they came out in consequence of orders from Colonel Andrew Boyd, under the waggon law of this state, to perform their tour of duty ; that the deponent ever thought they were in the public employ, until they were near Egg-harbour, when the circumstance of their being denied provisions was told to them by Jesse Jordan ; that deponent would not have come out willingly, if he had known that he was to be employed about private business ; that deponent's waggon was loaded with sails and furniture of a vessel, and chests, at the forks of Eggharbour, by order of Captain Moore, and that he unloaded by order also of Captain Moor at Stephen Collins's in Second-street ; that after returning home, his team was ordered out again in about eight days, to finish his tour of duty, and proceeded as far as Pompton plains, towards the North river ; that he has hitherto received no pay for his journey to Egg-harbour, or for any part of the time he was first out ; that he was present and heard Colonel Mitchell
tell

tell Jesse Jordan to go to General Arnold ; and he would get his orders, the day they set off for Egg-harbour ; that he was ordered out the second time to finish his tour of duty, having been from home the time they went to Egg-harbour only fourteen days, and was out to Pompton twenty-nine days, or thereabouts, being upon a journey ; that he has applied to nobody for pay, excepting to their waggon master Jesse Jordan ; that deponent drew forage and provisions all the time from leaving home, till he returned the first time of his being out under Jesse Jordan, when they went to Egg-harbour.

DAVID COCHRAN.

Sworn the first February, 1779, before me,

PLUN. FLEESON.

Copy examined.

T. MATLACK, *Secretary*.

Philadelphia, ff.

John Boyd, being sworn, saith, That he was out with his team, in the brigade of Jesse Jordan above mentioned, in consequence of orders from Colonel Thomas Boyd, to perform his tour of duty ; that he thought they were in public employ till the time of taking in his load at one Saltar's near Egg-harbour, when Jesse Jordan told him, he apprehended they were bringing private property ; that he would not willingly have gone if he had known this in time ; that he was loaded with loaf sugar and tea, by order of one Clark (he thinks his name was) who accompanied them along with Captain Moore from Philadelphia, and unloaded by the orders of the same in Second-street, where the rest did ; has seen the house this morning, and they call it Stephen Collins's ; that deponent was present, and heard Colonel Mitchell order Jesse Jordan to go to General Arnold for orders, the day they set
off

off for Egg-harbour ; that he drew provisions and forage from the time he left home till he returned ; that he has received no pay, nor has applied for any, depending on the waggon-master to do that business ; that one of the deponent's horses was lamed in the journey, which he thinks prevented his going again to finish his tour when David Cochran did, and that otherwise he should have gone ; that he was not ordered out by Colonel Boyd this second time, he having been with Jesse Jordan at Colonel Boyd's, and informed the colonel of his horse's being lame, and the brigade was filled without him.

JOHN BOYD.

Sworn the 1st February, 1779, before me,

PLUN. FLEESON.

Copy examined.

T. MATLACK, *Secretary*.

Philadelphia, ff.

This 29th May, 1779, before Plunkett Fleeson, Esq., personally appeared Stephen Collins, of the city aforesaid, and being duly affirmed according to law, doth say and declare, That some time about the latter end of October, during the time of the enemy's being at Eggharbour, or thereabouts, several waggons came to this affirmant's house in Second-street, under the charge and care of a man of the name of Clark, he thinks his christian name was Thomas ; that the waggons contained several casks, (he thinks five or six) with loaf sugar, three chests, and three others somewhat broken, of tea, seventeen pieces of coarse woollens, fifty or sixty pieces of coarse linen, five or six boxes of glass, four or five casks of nails, the sails of a schooner, about half a dozen swivel guns ; that these are all the articles he at present recollects ; that this affirmant sold all these articles upon
 commission,

commission, at the request of [James] Seagrove ; that he was spoken to at different times about the goods by Robert Shewell, [William] Constable, and that after the sales, he paid the money agreeable to the directions of the three last mentioned persons, about one half to General Arnold, and the remainder among the same three persons ; that this affirmant understood, that the above goods were the property of General Arnold, and the others above mentioned, from the above circumstances, and also, for that General Arnold spoke to this affirmant about paying him, (General Arnold) his part of the money.

STEPH. COLLINS.

Affirmed before me,
PLUN. FLEESON.

The judge advocate produced Colonel John Mitchell's minute-book, to shew that the original entry, the 22d of October, 1778, of Jesse Jordan's waggons, was altered, and the entry of their return from Eggharbour, the 30th of October, 1778, was totally obliterated, and called on Timothy Matlack, Esq., to give evidence respecting these matters.

Q. To Mr. Matlack. Do you know anything respecting the erasures and obliteration made in Colonel Mitchell's minute book ?

A. Having had some business with Mr. Mitchell, which remained unfinished, he called to me when I passed by his door, while this matter was in altercation, informed me, that the business that was depending between us, was now settled in such a manner, that he could pay the money, and that his clerk would pay it ; and requested me to step into a back room, as he wanted to say something to me upon the sub-
ject

ject of the certificate of the entry of the waggons, said to be employed by General Arnold, for transporting private goods ; he endeavoured to induce me to believe, that the council of Pennsylvania had, without a foundation, suspected that he had detained some certificates they had requested of him respecting these waggons : he declared, that there was no entry of the discharge of Jesse Jordan contained in his books, nor no other entry, but the entry that he had furnished them with. The only entry that he had furnished to the council was in these words : “ 1778, Oct. 22, Jesse Jordan w. m. 12 teams, Chester county, went to Egg-harbour, by the direction of General Arnold.” This declaration surprised me, as I knew it otherwise, by such kind of evidence as I could not doubt. The evidence that I mean to allude to, is a conversation with Jesse Jordan, who could have no knowledge of any use that could be made of it at that time, who declared, that he saw and read in Mr. Mitchell’s memorandum-book, an entry of his discharge from the public service, which was after he returned from Eggharbour ; and as Jordan was a man of reputation, I could not doubt the fact. I told Mr. Mitchell that I had some reason to suspect, that the copy he sent to the council was not a genuine one. He declared it was. The acquaintance I had with the fact, induced some surprise at the declaration, and I hesitated some time before I made him any reply. I told him, I should take it as a favour, if he would shew me the book, in order that it might remove the suspicions that were in my mind with respect to the fact. He expressed some difficulty, on account of his not being able to lay his hand on the book at that time, and some reasons of that kind, which appeared to me to be trifling ; and I so told him. He ordered his clerk upon that to bring that book, and looked over the book in such a manner, as if he

he found some difficulty in recurring to the entry. I mentioned, it was made the twenty-second of October, and he would find it if he turned to that date. He opened the book at the date, and read the entry. We were sitting close together at the time, face to face, when he read the entry. I knew it contained the words of the certificate he had given; and he then laid the book upon the further end of the table, about four feet from us. Upon his laying down the book, I observed the alteration, and asked him to hand me the book, that I might look at it. With some hesitation he handed it. Upon looking at it, I told him, the alteration had been made precisely in the manner I was informed it was made. He then declared that the alteration was nothing material, and it was made by his order. As the book lay open, the obliteration struck my eye; and such a one as I had never seen in a book before, according to my recollection: It struck me, that that obliteration was on the thirtieth of October, the last entry made that day, the day the waggons arrived from Eggharbour, which had crossed after sunset. After considering the matter some time, I determined to mention what I had seen to the council of Pennsylvania, and mentioned it accordingly. Mr. Mitchell was sent for, and requested to bring the book of entries. He appeared and produced the book, and after he was examined, and much having been said on the subject, he acknowledged, that the entry on the twenty-second of October had been altered by his direction; that the note on the margin originally stood, *Gone to Egg-harbour, by order.* The word *gone* being altered to the word *went*, and the word *order*, to the word *direction*, abbreviated. Whether he acknowledged, that the words, *of General Arnold*, were added or not, I cannot ascertain. And he acknowledged, that the obliteration

of the thirtieth of October, in his book, was ordered to be made by him, and intended to conceal and destroy an entry of the discharge of Jesse Jordan, and his brigade, from public service.

Q. Did Mr. Mitchell acknowledge, that the words, *of General Arnold*, stood in the entry, previous to the alteration being made?

A. I cannot recollect. At that day there appeared to be some difference in the ink, and I thought the words, *of General Arnold*, appeared to be added.

Q. Court. Did Mr. Mitchell say or intimate, that the alteration of the entry of the twenty-second of October, or the obliteration of the thirtieth of October, was made by the knowledge or advice of General Arnold?

A. I know of no circumstance that should induce a suspicion, that he had made the alteration either with the advice or knowledge of General Arnold.

Q. Court. Did you enquire of Mr. Mitchell what his motives were for making the alterations and obliteration?

A. Much was said upon the subject, and he put it off in this manner, that he wished not to have it known that such an entry had been made, as he thought the entry was an improper one.

Q. Did he assign any reason why he thought the entry an improper one?

A. I do not recollect that he ever assigned any clear, explicit reason on that subject. It appeared to me, that he was fearful, that if the waggons should be considered as being in public service, he should be blamed for the manner they were employed.

Q. By General Arnold. What were the reasons Mr. Mitchell assigned to counsel for his making the alterations and obliteration in the book?

A. After

A. After the acknowledgment of the alterations and obliteration, I believe there were not many questions put to him on that head ; to those that were, he answered evasively. The answers, precisely, I cannot recollect.

Q. By ditto. Did Mr. Mitchell inform the president and council, that the reason of the alterations being made, was, that the first entry was an improper one, and made by one of his clerks without his knowledge ?

A. I am uncertain, whether he gave that as a reason to the council, but I am certain he gave that to me as a reason, and added, that it was a memorandum-book that lay in his office, and the entries were made in it by his clerk, without his knowledge, business being done in his office, as in other offices, by his clerks.

Q. Court. Who were to pay for these waggons, and at what price ?

A. The pay-rolls were made out at the common pay allowed for waggons in the public service, and the pay-rolls were sent to General Arnold, by order of Mr. Mitchell, as I understood.

Q. By General Arnold. Did the president and council send for Mr. Jordan, with respect to the pay of the waggons ?

A. Not that I know of or recollect. I believe the fact was, they desired Mr. John Mitchell to send for him to give evidence before the committee of congress.

Q. By do. Did Jesse Jordan complain to the president and council that he was refused payment, previous to their desiring Colonel Mitchell to send for him, to give evidence before the committee of congress ?

A. The general complaint respecting the employment of the waggons was made to council by Andrew Boyd waggon master of Chester county, through James Young waggon

master of the state. The council expected that Jesse Jordan would be in the city in consequence of their request to John Mitchell to send for him, and did not send for him that I know of or recollect. When Mr. Jordan came to the city, information was given to the council of his being in the city, and a reference being had to the deposition of Jordan, it will appear the manner of his coming to the city. After the deposition was taken, application was made by him to council, to know how he was to receive his money? and he complained of the ill treatment he had received by a threat from Mr. Mitchell of being confined. The council conceiving themselves bound to take care that the waggons had their money, advanced to Jesse Jordan a sum to pay those who were in the greatest necessity, conceiving that General Arnold was bound to pay, and that a price would be received of him equal to the price of private hire, and the money so advanced stands charged accordingly.⁽¹⁴⁾

Q. By General Arnold. Did Jesse Jordan at any time complain to the president and council that I had refused him payment of his account which he had presented to me for the hire of his waggons?

A. No otherwise that I knew of, but by his deposition which is before the court, and his application, which I have mentioned already, how he should get it?

Q. By do. Was not the complaint respecting the waggons instituted by the desire of the president and council, or some one of them.

A. It was not, to the best of my knowledge.

Q. By do. Do you know nearly the amount which Jesse Jordan charged at first for the hire of his brigade of waggons?

A. No otherwise than what appears by the original pay rolls, which were lodged in my office by Andrew Boyd, and which I now deliver to the court.

A Pay-Roll of my Brigade of Waggon in the service, ordered from Philadelphia to Eggharbour by General Arnold, October 16, 1778.

John Boyd entered Oct. 18, and were 12 days in service, with his waggon and four horfes	75 <i>f.</i>	£45
David Cochran entered Oct. 18, and were 12 days in service, with his waggon and four horfes, do.		45
Thomas Gibfon entered 18 Oct. and were 12 days in service, with his waggon and four horfes, do.		45
Andrew Gibfon entered Oct. and were 12 days in service, with his waggon and four horfes, do.		45
Samuel Gibfon entered Oct. and were 12 days in service, with his waggon and four horfes, do.		45
Joseph Boogs entered Oct. and were 12 days in service, with his waggon and four horfes, do.		45
Jacob Weldon entered Oct. and were 12 days in service, with his waggon and four horfes, do.		45
Joseph Kile entered Oct. and were twelve days in service, with his waggon and four horfes, do.		45
Samuel Parke entered Oct. and were 12 days in service, with his waggon and four horfes, do.		45
Eleazer Hamet entered Oct. and were 12 days in service, with his waggon and four horfes, do.		45
James Steen entered October, and were 12 days in service, with his waggon and four horfes, do.		45
Jesse Jordan entered Oct. 18, and were 12 days in service, with his waggon and four horfes, do.		45
Jesse Jordan, a waggon master, at 12/6 per day,		7 10
To the hire of my horse, 5 <i>f.</i> per day, and		3
Forage for my horse at 5 <i>f.</i> per day,		3

£553 10

The

The above is copy of an original delivered into my office by Jeffe Jordan.

T. MATLACK, *Secretary.*

A Pay-Roll of my Brigade of Waggon in the Continental service, the United States, October 16, 1778, ending the 29th of the same, both days included.

Dr.

D. 14 at £2 15 per day.

John Boyd entered Nov. 16, and were fourteen days in the service, with his waggon and four horses,	£38 10
David Cochran entered November 16, and were fourteen days in the service, with his waggon and four horses,	38 10
Thomas Gibson entered Nov. 16, and were fourteen days in the service, with his waggon and four horses,	38 10
Andrew Gibson entered Nov. 16, and were fourteen days in the service, with his waggon and four horses,	38 10
Samuel Gibson entered Nov. 16, and were fourteen days in the service, with his waggon and four horses,	38 10
Joseph Boogs, entered Nov. 16, and were fourteen days in the service, with his waggon and four horses,	38 10
Jacob Wildon entered Nov. 16, and were fourteen days in the service, with his waggon and four horses,	38 10
Joseph Kite entered Nov. 16, and were fourteen days in the service, with his waggon and four horses,	38 10
Samuel Parke entered Nov. 16, and were fourteen days	

days

days in the service, with his waggon and four
 horfes, 38 10
 Eliezer Hamet entered Nov. 16, and were fourteen
 days in the service, with his waggon and four
 horfes, 38 10
 James Steen entered Nov. 16, and were fourteen days
 in the service, with his waggon and four horfes, 38 10
 Jeffe Jordan entered Nov. 16, and were fourteen days
 in the service, with his waggon and four horfes, 38 10
 Jeffe Jordan attending and *fede* waggon, fourteen days,
 and finding my *one* horfe, at £1:0:0 per day, 14
 17th *November*, 1778. The above account is just and
 right.

ANDREW BOYD, *W. M. G. C. C.*

The above is copy of an original pay-roll delivered into my office by Jeffe Jordan; the word "*October*" having been written in the third line over an erasure, which appears to have been the word *November*.

T. MATLACK,⁽¹⁵⁾ *Secretary.*

Q. By ditto. Did not the president and council advise Mr. Jordan to charge eighty pounds for the hire of each waggon, and [send the account to the attorney general to prosecute?

A. To answer the question generally, I say, not that I know; but, in particular, I believe they advised him to commence an action for the recovery of the pay, which was allowed for waggons in private service, and I myself told him, that ten pounds a day was the price paid in New Jersey for that kind of service.

Q. By ditto. Did the president and council write an official letter to Mr. Jeffe Jordan, with these words: *We make no doubt but you will be allowed eighty pounds for the hire*

hire of each waggon; and ordering, or advising him to send the account to the attorney general to prosecute?

A. As I had no expectation of being questioned concerning a matter of that nature, and having none of the papers present, it is impossible I should give a precise answer with respect to the words of a letter written so long ago; but it was very probable something of that kind was written, as I recollect to have heard sentiments of that kind expressed by members of the council of Pennsylvania.

The court adjourned until to-morrow, eleven o'clock.

December 29.

The court met according to adjournment.

Major General Arnold acknowledged, that Captain Moore, to whom Jesse Jordan was ordered to apply for orders at Eggharbour, is the same Captain Moore, who is named in the protection, as commanding the schooner *Charming Nancy*.

The judge advocate having produced his evidence with respect to the several charges exhibited against General Arnold, the general was desired to proceed in his defence; who called on Timothy Matlack, Esq., and asked the three following questions:

Q. Did not Captain Shewell take the oath of allegiance to the state of Pennsylvania, agreeable to law, by the first day of June, 1778?

A. I do not know.

Q. Did he not inform you that he had?

A. Not that I recollect.

Q. Did Captain Shewell produce to the president and council of the state of Pennsylvania, a certificate of his having taken the oath of allegiance to the state, as required by law?

A. Not

A. Not that I know of or recollect.

Major General Arnold produced the depositions of Colonel Thomas Proctor, David Beveridge, and Mr. Stephen Collins, which were read, and are as follows :

Col. Thomas Proctor, maketh oath, That in January laſt, Colonel North⁽¹⁶⁾ received a letter from Mr. Robert Shewell, in which he requested Colonel North and Colonel Proctor would procure him a paſs to go to Virginia to ſettle with Stacey Hepburn ; that in March, after Mr. Shewell had returned from Virginia, where he had gone by permiſſion of General Scott,⁽¹⁷⁾ he informed deponent of his intentions of coming with his family from the city to live, and that he had taken a houſe in Maryland to live in ; that the reaſon of Mr. Shewell's not leaving the city ſooner, was, becauſe of the indifpoſition of Mrs. Shewell, that in May he received a letter from Mr. Shewell, informing him, that he was loading a veſſel for the uſe of the American army, and deſiring him to procure a paſſport for that purpoſe, and for himſelf and family, for which Colonel Proctor did not apply for. On the 3d of June, Mr. Shewell came to head-quarters, and informed deponent, he had come for a protection for his veſſel, that he had loaded her with a cargo ſuitable the army, and procured a captain to ſerve him, and afterwards procured a paſs from General Arnold, as he underſtood ; that he doth not know of any application being made to General Waſhington for a paſs ; that the major general of the day, and not the commander in chief, is the proper officer to make application to for paſſports.

THOMAS PROCTOR,⁽¹⁸⁾ *Col. Artillery.*

Sworn to, Auguſt 6th, 1778, *coram,*

JOHN IMLAY.

SAMUEL INGERSOLL, Commander of the
 private schooner of war, *Xantippe*,
against
 The schooner *Charming Nancy*.

David Beveridge, of the city of Philadelphia, merchant, doth solemnly affirm in the above cause, that Mr. Robert Shewell applied to the affirmant, on the supposition of the British army being about to leave Philadelphia, and some short time before they left that city, and asked him if he would be concerned in a voyage, to send a quantity of salt into some American port; that he this deponent said, he had no objection, and actually agreed to be concerned in the said schooner, and to pay two hundred pounds towards purchasing a third of the vessel to load with salt, sugar, and rum, and that he this deponent proposed to clear her out for Newfoundland, for such a cargo, as the most unsuspected port; that William Shirtliff, one of the partners, some time after told deponent, that he could procure a clearance for New-York, for the said schooner, and no where else, upon which affirmant told him, it would do very well; that this deponent some time after (having heard in the interim, that Mr. Shirtliff had divulged the scheme of the voyage to several persons, and spoken too publicly of it), told him he could not be concerned in the matter, and absolutely declined it, having just before this got out of jail, where he had been kept for some time, by order of General Howe; that deponent, when he engaged to be part owner of said schooner, called on Governor M'Kinley, who was lately from Wilmington, then a prisoner in Philadelphia, and asked him, what he thought of sending into Wilmington a cargo of salt, and that the governor said, it would be very acceptable

able, but in his situation, being a prisoner, on parole, he did not choose to say anything on the subject; that deponent asked the governor, if he could not give them something like a passport, certifying the intention of the voyage, in case of accident, which the governor, for the aforesaid reason, declined; that affirmant advised the said company to load her so deep with salt, as to prevent her taking in goods on freight, the refusal of which might cause a suspicion of their intention, in case of her not being fully loaded; that the company accordingly purchased a large quantity of salt, and put it on board; that affirmant understood salt was of so little value at New York, that no body would carry it there for nothing; that at the time of the enemy's leaving said city, very high prices were given for carrying of goods upon freight, and great numbers of vessels, or the owners thereof, were very desirous of having their vessels employed in that way; that he is perfectly satisfied, it would have been much to the advantage of the said company, if they had intended going to New York, to have thrown the said salt overboard, and carried goods upon freight, as he has no doubt at all, but the money they might have received for freight, would have been of much greater value than the salt when arrived at New York, and he thinks of equal value with the said vessel; that Robert Shewell and William Shirtliff, of the state of Pennsylvania, were the persons who consulted him on the above mentioned scheme; that they appeared to be owners of the said schooner, as they acted upon all occasions as such, both as to planning the voyage, loading her with their goods, and fitting her out; that at the time of purchasing the said salt, it sold for about three shillings and nine-pence per bushel, but at New York it was of no value, and store-room would not be given for it,

and much had been given away there as he understood, and that no vessels at all carried falt to New York when the fleet went ; that he has no reason at all to suppose it was their intention to go into any port in possession of the enemy ; that he went on board the said vessel and viewed her, but saw no guns on board her.

DAVID BEVERIDGE.

Affirmed, August 6th, 1778, *corum*,

JOHN IMLAY.

SAMUEL INGERSOLL, Commander of the
privateer *Xantippe*,
against
Schooner *Charming Nancy*.

In the Court of Admiralty for the state of New Jersey.

Stephen Collins of the city of Philadelphia, merchant, a witness produced and examined in this cause on the part of the claimants, on his solemn affirmation faith, that he well knows the schooner *Charming Nancy* libelled in this cause ; that she now is, or lately belonged to, and was the property of William Shirtliff and Co., of the state of Pennsylvania ; that some time in last spring the said Shirtliff and Co., applied to this deponent for advice and assistance respecting a plan they were forming at the time the intentions of the enemy became generally known of evacuating the city of Philadelphia, to escape with their property from the enemy ; that it was at first proposed to watch a favorable opportunity with a flood tide to escape with the said schooner from the enemy up the river Delaware, but this being thought too hazardous, it was finally concluded upon by the advice of this deponent,

as

as the safest and most eligible mode of effecting the designs of the said company, as well as to serve their country, to load the said vessel with their property, consisting of such articles as were most necessary for their country, and which could not immediately occasion a suspicion of their designs, to clear out for the port of New York, to sail in company with the British fleet from the city of Philadelphia, under pretence of going to New York, and to watch a favourable opportunity of escaping into some of the creeks emptying into the river Delaware, or into such other port or inlet in the possession of the United States, as they might be able; that in order to prevent suspicion taking place with the enemy, this deponent advised the said company to entrust the knowledge of their designs with but few persons, and to contrive matters so as to have their vessel fully loaded with their own effects, lest they might be applied to by other persons to carry goods upon freight to New York, and if they should decline so to do, they would encrease the suspicion which had already taken place with the enemy, of their intentions to escape to some port of the United States; that upon the recommendation of this deponent, said schooner was laden accordingly; that a large quantity of salt was purchased by the said company, and laden on board the said vessel, for the purpose aforesaid, that he cannot precisely ascertain the number of bushels thereof, but believes it to have been about 1500; that from the knowledge this deponent had of the price of salt at Philadelphia, and all accounts public and private of the price of salt at New York, at the time of purchasing the said salt by the said company, he is satisfied the said salt, if it had safe arrived at New York, would not have sold for more than one-half the sum it cost at Philadelphia; that about the time

of the enemy's evacuating the said city, it was a very common practice to unload salt out of vessels, for the purpose of taking other articles upon freight, that being much more profitable; that this deponent is fully satisfied, that had it been the intention of the said Shirliff and Co. to go to New York, it would, after they had bought the salt, and put it on board, been really to their advantage to have thrown the said salt into the river, and carried goods upon freight for the people, inasmuch as the said salt would not have sold for near so much money there, as the freight of a cargo of merchandise for other people would have come to; that this deponent well knows that the said Shirliff and Co. loaded and fitted out another vessel nearly about the time above mentioned, and upon the like plan; that she sailed as he thinks with the first division of the fleet, and it afterwards became a matter of public notoriety in the said city, that the said other vessel made her escape from the enemy into Wilmington creek; that the suspicion of the enemy had been very strong against the said Shirliff and Co. by reason of such large quantities of salt being taken on board, which suspicion increased to such a degree after it was known in the city of the said other vessel's making her escape, that it was strongly talked of by the enemy of confining in irons the said Shirliff who was on board the said schooner; that this deponent verily believes that the real and absolute owners of the said two vessels with their cargoes are William Shirliff, William Constable, Robert Shewell, James Seagrove, and David Shoemaker, he having been consulted by several of them upon the above mentioned plan, having generally understood that they were the owners, and having seen them exercise every act of ownership therein; that the said vessel could not have sailed before the fleet, if it had been the desire of the

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the owners, unless in company with other British vessels; that he is totally clear, and has no kind of doubt, but that from the whole tenor of the said company's conduct, it was their intention to run into some port in the United States not in the possession of the enemy; that he advised them to let some of their goods pass under the name of other persons, to prevent suspicions in case they appeared to be the sole owners; that Mr. Shewell left the city of Philadelphia about three or four weeks before the evacuation, with the view of mentioning his plan to some person in authority, and to receive their countenance and assistance, and did not return till after the enemy left it; that the *Charming Nancy* came into Philadelphia in the month of December, and was then the property of Coffin and Anderson; that she had no guns on board of her to his knowledge; that said Coffin and Anderson were followers of the British army.

STEPHEN COLLINS.

Affirmed, 6 August, 1778, *coram*.

JOHN IMLAY.

Stephen Collins, a witness produced in the cause, upon his solemn affirmation saith, that he well knows Robert Shewell, William Constable, James Seagrove, and William Shirtliff, the claimants in this cause; that the said Robert Shewell now is, and for many years was, an inhabitant of Pennsylvania; that William Shirtliff now is, and for seven years past and upwards was, an inhabitant of Pennsylvania; that James Seagrove was formerly an inhabitant of New York, and for about eight months past hath resided in Philadelphia; that William Constable lived in the city of Philadelphia for eight or ten months past; that one or two weeks

weeks before the evacuation of the city by the enemy, the said Constable left the city and went into the country, and did not return till after the enemy left it; that to the best of his knowledge the said Shewell was in the said city at the time the enemy entered it.

STEPH. COLLINS.

Affirmed before me, 6 August, 1778.

JOHN IMLAY.

Pennsylvania, ff.

I Andrew Robeson, register of the acts, matters, causes, and business done and transacted in the honourable the court of commissioners of appeal for the United States of America, do hereby certify the foregoing to be true and exact copies of the depositions of Colonel Thomas Proctor, David Beveridge, and Stephen Collins taken in the court of admiralty in the state of New Jersey, in the same cause, Samuel Ingerfoll, *qui tam*, &c., libellers against the schooner or vessel called the *Charming Nancy*, her cargo, &c., I having carefully compared the same with the respective originals thereof, contained in and transmitted with the proceedings of the said court of admiralty, to the said court of appeal, and now remaining in my office at Philadelphia.

In testimony whereof, I have hereto set my hand and seal at Philadelphia aforesaid, the twenty-sixth day of
[L. s.] September, Anno Domini 1779.

ANDREW ROBESON, *Cur. Ap. Reg.*

Major General Arnold not having all his evidence with respect to the first charge, moved the court that he might go into his proofs relative to the second charge, and be at liberty

liberty to revert to the first charge when his evidence arrived, which was granted.

With respect to the second charge against him, the General produced Major Franks' and Major Clarkson's deposition, which was read, and is as follows :

We do certify, That when the shops in this city were shut in June last, by order of Major General Arnold, in consequence of a resolution of congress of the 4th June. We do not know of General Arnold's making any purchases of goods of any kind, directly or indirectly ; and we have every reason to believe that no such purchases were made either by General Arnold or his agents, except a few trifling articles to furnish his table, and for his family's use, most of which were supplied him by the quarter master or commissary. General Arnold's invoices, minute and account books being always open to our inspection, confirms us in our belief as mentioned above.

M. CLARKSON, *Aid de Camp.*

DAVID S. FRANKS, *Aid de Camp.*

On the third of March, 1779, personally appeared before me, the subscriber, one of the justices of the peace of the city and county of Philadelphia, M. Clarkson and David S. Franks ; and being both duly sworn, do declare the above to be true, to the best of their knowledge.

BENJAMIN PASCHALL.

Q. To Major Franks. Were you present at Justice Paschall's when Major Clarkson made oath to the contents of the paper you have heard read ?

A. I was ; and that is the paper which Major Clarkson signed, it having been written by him.

Q. By

Q. By General Arnold to Major Franks. What do you know about the shutting up the shops and stores in Philadelphia?

A. The day after I came into town, which was the day General Arnold came, General Joseph Reed, who is now president of the state of Pennsylvania, and myself met. He told me that they were selling goods in town, and advised me to send a crier round to prohibit the sale of goods. I at first agreed to it, but afterwards thought it was doing more than I had a right to. I met him again, and told him that I would put it off until General Arnold came. When General Arnold came to town, General Reed came to his quarters, and upon consulting with him, wrote a proclamation, which I think was the same that was published, with some alterations.

Q. Court. Were the alterations made in it, material?

A. I believe not.

Q. Are you positive that General Reed drew up the proclamation?

A. I saw General Reed at the table drawing it up; General Arnold and Mr. Boudinott were in the room at the time.

Q. By General Arnold. Do you know of my having given licences to purchase goods, though applications were made by my intimate friends for them?

A. I do not know of your intimate friends having asked for licences to purchase goods; but I know that many applications were refused, and I know of no licences being granted to any person to purchase goods.

Q. By do. Do you know at what time the shops and stores were opened, and every body permitted to purchase?

A. I do not know the particular time?

Q. By

Q. By do. Do you know whether General Arnold, or any person by his orders, directed any goods to be laid by for his use?

A. No; except some trifling articles from the commissary and quarter master.

Q. By General Arnold. Do you know of any articles being laid by, except some trifling articles for my own use, the use of my family, for General Washington, and for one or two other officers?

A. No; except two pipes of wine, which were afterwards drank in the family?

Q. By General Arnold. Do you know whether the two pipes of wine were purchased or laid by previous to the shops being opened?

A. I don't recollect that they were purchased before the shops were opened.

Q. Court. Do you know whether any of the articles that were laid by, were taken from the shops previous to the legal opening of them?

A. I do not.

Q. By General Arnold. Were not all the articles of clothing of consequence that were supplied me, which are mentioned to have been for General Washington and several other officers, as well as myself, supplied by the clothier general or his agent?

A. I believe they were.

Q. By do. Do you know what time Congress arrived in Philadelphia?

A. I do not. They were there the fourth of July.

Q. By do. Were not the shops open at that time?

A. They were.

Q. By the Court. Do you know whether General

Arnold purchased any part of the *Charming Nancy* or her cargo ?

A. I do not of my own knowledge ; but I have heard General Arnold say he did, and I have also heard Mr. Seagrove say he did.

Q. Court. Was it previous or subsequent to General Arnold's granting the pass ?

A. It was subsequent.

The court adjourned until to morrow eleven o'clock.

December 30.

The court met according to adjournment.

Major General Arnold adverted to the first charge, and proceeded to produce evidence respecting it.

Q. By General Arnold to Timothy Matlack, Esq. Do you know whether the owners of the *Charming Nancy* voluntarily remained with the enemy ?

A. Mr. Shewell did, as I understand. I understood it from him.

Q. By do. Did Mr. Shewell assign his reason for remaining with the enemy ?

A. If he assigned any reasons I do not recollect what they were ?

Lieutenant Colonel Hamilton, being sworn,

Q. By General Arnold. Do you know Mr. Seagrove's general political character ?

A. I have heard it frequently discussed, and very different opinions entertained of it. Many were of opinion that he was warmly attached to the American cause, and others that he was not. He had a commercial connection of a very delicate nature with a Mr. M'Evers, reputedly a disaffected person, which was supposed by those acquainted with him to have restrained his political conduct, and made
him

him less active in favour of America than he otherwise would have been ; others considered him as a man of address, who wished to stand fair with both parties, though in reality more friendly to the opposite party than to us. I have heard several liberal men speak of his situation with a degree of compassion, as producing an opposition between his principles and his private connections. My own opinion of him was favourable, from a general idea of his integrity, and from a particular circumstance which happened as our troops were evacuating New York. I was among the last of our army that left the city ; the enemy was then on our right flank, between us and the main body of our army. At about three miles from town, on our march out, Mr. Seagrove was at a house, the name of which I forget, in company with several ladies and gentlemen, he left them, and came up to me with strong appearances of anxiety in his looks, informed me that the enemy had landed at Harlaam, and were pushing across the island, advised us to keep as much to the left as possible, to avoid being intercepted ; the information he gave us, I believe, was not true, as to the place where he said the enemy had landed, they having in fact landed in a different place, but he could not have framed it for any bad purpose, because the advice he gave us must have been good and proper in any event, as it was known that the enemy had not landed any troops in the north river on our left, by inclining to which course we stood the best chance of avoiding that body which had landed on our right. The favourable impressions I before had of Mr. Seagrove were confirmed by this incident, not so much from the nature of the transaction, as from an appearance of sincerity and concern strongly pictured in his countenance ; which had the more weight as he remained in the city, and might have run some risque from
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what he did. At an early period of the war he entered into an independent company, but the company afterwards came to nothing.

Q. By do. Has not the political conduct of Mr. Seagrove since confirmed the favourable impressions you had before of him ?

A. It has, so far as it has come to my knowledge.

Q. By ditto to Major Franks. Do you know Mr. Seagrove's general political character ?

A. I knew nothing of his political general character of my own knowledge, previous to your giving the protection for the *Charming Nancy* ; but I have understood that he was considered as a whig. Since that period I have been in actual service with him.

Q. By do. Do you know the political general character of the persons who were owners of the *Charming Nancy*, previous to my giving the protection for her ?

A. I never knew either Mr. Shirtliff or Mr. Constable before I went to Philadelphia, or saw them in my life before, that I remember. I knew Mr. Shewell before the protection was granted, and always supposed him to be well affected to America. He was in one of the militia companies in Philadelphia, some time before the enemy got possession of it.

Q. Court. Did he tell you his reasons for staying in Philadelphia ?

A. He did.

Q. Court. What were they ?

A. The impracticability of removing at the time ; his wife having been brought to bed and dangerously ill. He told me frequently that his intentions were to remove out of town.

Q. By General Arnold. Did Captain Shewell inform
you

you that he had taken the oath of allegiance to the state of Pennsylvania, previous to my granting him the pass?

A. I think he^d did, and said previous to the time directed by the state of Pennsylvania; and I understood from him that he had taken it out of town, and had a certificate of it.

Q. By the court. Did he inform you at what place and before whom he took the oath of allegiance?

A. He did not that I remember.

Q. By General Arnold. Did you understand at the time Captain Shewell applied to me for the protection, that he produced to me a certificate of his having taken the oath of allegiance to the state of Pennsylvania, agreeable to law?

A. I don't know what passed at the time, but I understood from him at that time, that he had a certificate of that nature.

Q. Court. Did you understand how long Mr. Shewell had been out of Philadelphia before he obtained the protection from General Arnold?

A. He was time enough out to take the oath of allegiance to the state of Pennsylvania, as I understood from him, which was ordered to be taken, I think, by the first of June. I know that Mr. Shewell gave his vote at an election in Philadelphia, which he would not have been permitted to give, had he not produced a certificate of his having taken the oath of allegiance by the first of June.

With respect to the fifth charge, Major Franks produced in behalf of the General says, That he went to Colonel Mitchell's by desire of General Arnold, to know whether he could spare him some waggons to transport some goods that were in danger of falling into the enemy's hands at Egg-harbour. He was told, either by Colonel Mitchell or his clerk,

clerk, that waggons could not be spared at that time, but that soon it might happen, as they expected a number of waggons in town; he brought that answer to General Arnold, and some days after General Arnold told him to go to the quarter master's, to enquire and see if possible the waggon master who was to conduct a brigade of waggons for him, and to order them to go to Eggharbour or the forks, and there to take a Captain Moore's directions, respecting what he was to do. When he got to the office he wrote a letter ordering the waggon master so to do, and signed it officially; after which the waggon master went.

Q. By General Arnold. Were not frequent applications made for the waggons before I procured them?

A. I went once myself, as I have said before, and I believe Major Clarkson went once or twice, and I believe you went yourself. It appeared to me several applications had had been made for them.

Q. By do. Did you not view the request made for the waggons of a private nature, and not officially?

A. I understood you were to pay for the waggons for the transportation of the goods, and that it was a matter of favour in Colonel Mitchell to let you have them.

Q. Do. How happened it that you signed the order to Jesse Jordan officially?

A. I had no particular directions from you so to do; that from custom I always signed aid de camp at the end of my name; I myself might have probably thought at that time, that it might have been the means of his executing the order with more alacrity, as dispatch was necessary.

Q. By General Arnold. Do you know of my sending to Colonel Mitchell for the account of the hire of the waggons, previous to any charge or publication made against me?

A. I

A. I do ; I went once or twice myself, and I believe you sent Major Clarkson.

Q. By do. When I went to camp in February 1779, was not money left with Major Clarkson for the purpose of paying for the waggons, and orders given to him accordingly ?

A. I think, before we set out to go to camp, the waggon master brought an account against you for the hire of the waggons. You told the man to get it certified by Colonel Mitchell, to come in the afternoon with the certificate, and you would pay him. Whether he came in the afternoon or not, I cannot say ; but we set out for camp, and you informed me that you had left money with Major Clarkson to discharge that account. Clarkson told you when you returned, that he had not paid the money, as the man had not called, or that he could not find him.

Q. Court. How long was the account presented for the hire of the waggons, before you set out for camp ?

A. I believe two or three days.

Q. By court. Was that the first time the account had been presented to General Arnold ?

A. I think it was, as there had been frequent applications made for the account, and it could not be procured.

Q. By ditto. Did you at any time, through the course of the transaction, understand that General Arnold officially employed these waggons ?

A. I understood that General Arnold was to pay for the waggons ; that he got them as a favour, and that they were not to transport public stores, but private property for himself and friends, and that he did not order them officially.

Q. By ditto. When you went to Colonel Mitchell for the

the waggons, did you inform him that they were wanted to transport private property ?

A. I did. I told him that the goods were in imminent danger, and told him, that the loss of so many goods would be a loss to the continent, as we wanted goods.

With respect to the last charge against the General, Mr. John Hall was produced, who was sworn.

Q. Did you make the alterations in Colonel Mitchell's minute book, of the twenty-second of October, and the obliteration in the same book, of the thirtieth of October, respecting Jesse Jordan's waggon ?

A. I did.

Q. Did you make the original entry yourself with or without orders ?

A. I made it myself without orders.

Q. Did you make the entry in the margin respecting the waggon ?

A. I did.

Q. With or without orders ?

A. Without any orders.

Q. What was the original entry ?

A. As far as I can recollect, it was, Gone to Eggharbour by order ; or went, I am not certain which.

Q. Were the words, *of General Arnold* mentioned in the first entry in the margin ?

A. They were not.

Q. When was the addition of the words, *of General Arnold*, made, and what was the reason of it ?

A. It was made in the course of one day, or two days, and it was made to assist my memory.

Q. Did you make the alteration with or without orders ?

A. I made it without orders.

Q. What was the reason of your making the alteration ?

A. The

A. The first reason was, I thought it was not good English, and when I came to reflect on it, I made the alteration, thinking I worded the entry improper.

Q. What was the reason of your changing the word order to direction ?

A. I can give no reason for it.

Q. To whom did General Arnold make application for waggons to go to Eggharbour ?

A. Major Franks or Major Clarkson came to Colonel Mitchell's office, where I was, and made the application to me, in Colonel Mitchell's absence.

Q. In what manner was the application made ?

A. The application was, that he, General Arnold, wanted a brigade of waggons, and to send the waggon master to him for directions : It was not made in writing.

Q. Did either Major Franks or Major Clarkson mention for what purpose the waggons were wanted ?

A. Not that I remember.

Q. Court. Did Colonel Mitchell speak to you respecting the waggons, previous to the application ?

A. He did not.

Q. Court. Did he converse with you on the subject afterwards ?

A. Not till some time in January.

Q. Court. What passed between you then ?

A. When Jordan came to town, sometime in January, and had his pay roll made out, Colonel Mitchell told him, he must go to General Arnold and get his pay. I then turned to the book, and saw he had been from the twenty-second to the thirtieth of October. Colonel Mitchell told me, that it should not be there at all, and had no business in the book, as General Arnold was to pay the hire of the waggons, and he was angry with me on account of it, upon

which I took up my pen and obliterated the entry of the thirtieth of October, determining in my own mind, that Colonel Mitchell should never give me a frown for it again, and that it should not appear in the book.

Q. Court. Did you understand why the hire of the waggons should become a private charge to General Arnold?

A. I then understood by Colonel Mitchell's mentioning what I have said to me, that they had been sent to transport property that was not the public's.

Q. Had you at any time any conversation with Jesse Jordan, or any of the waggoners employed in that affair, on the subject?

A. Not until after Jordan returned from Eggharbour: When he returned, I went and made a mark of his return, and told him to make his pay roll out: He said, he had not time to do it then, but would when he came to town again.

Q. Court. What conversation passed between you and Jordan when he returned again?

A. Colonel Mitchell was in the office when he produced his pay roll; he handed the pay roll to Colonel Mitchell, who looked at it. Colonel Mitchell turned to me, and asked, whether Jordan had received any forage? I answered, No; and he asked Jordan himself whether he had received any forage? He said, he had got an order for forage, and on being asked by Colonel Mitchell from whom, he said, from Colonel Hilzeimer at the stables. The colonel sent up to Mr. Hilzeimer, to know what number of days he had got. I don't recollect the number of days that he got an order for from Mr. Hilzeimer, but Colonel Mitchell mentioned, that he must make out his pay roll at the price, as if he had got no forage,

forage, and was angry at his having got forage, and that General Arnold was to pay him, and desired him to go and repay Mr. Hilzeimer the amount of what forage he had received from him. Jordan, as far as I recollect, made out another pay roll.

Q. Court. Had you ever any conversation with General Arnold, about the waggons ?

A. No.

Q. Did General Arnold know of any of these entries being made, or the alteration of them, previous to your doing it ?

A. Not to my knowledge.

Q. Court. Did General Arnold ever see the book to your knowledge ?

A. Not to my knowledge ; it was a book that lay on the desk in common, to make memorandums.

Q. Court. Did Jesse Jordan, or any of the waggoners employed at that time, tell you whether they considered themselves in public or private employ ?

A. I don't recollect that he or any of them did.

Q. Court. Was the original entry in the margin the usual mode of entry ?

A. I do not recollect.

Q. By General Arnold. Did I not make several applications for the waggons before they were sent ?

A. I do not recollect that you did.

Q. When was the obliteration made ?

A. About the latter end of January.

Q. Do you know of the council of Pennsylvania making application for a transcript of the entries ?

A. I did hear Colonel Mitchell say something about it, but not previous to the obliteration being made.

Q. Did

Q. Did Colonel Mitchell or any other person direct you to make the alterations or obliterations ?

A. He did not, nor any other person.

The court, for want of evidence, adjourned until Tuesday next eleven o'clock.

January 4, 1780.

The court met according to adjournment, and adjourned for want of evidence until Friday next, eleven o'clock.

January 19.

The court did not meet agreeable to the last adjournment, but met this day agreeable to his excellency the commander in chief's order, which is as follows :

Head Quarters, Jan. 18, 1780.

The court martial, whereof Major General Howe is president, is to meet to morrow morning, eleven o'clock.

Major General Arnold proceeded in his defence, and with respect to the first charge against him, produced an exemplification of the decree of the court of admiralty, for the State of New Jersey, respecting the schooner *Charming Nancy*, which being read, is as follows :

SAMUEL INGERSOLL, *qui tam*, &c.

v.

Schooner *Charming Nancy*, &c.

In the Court of Admiralty of New Jersey.

It appearing unto me, from the verdict of the jury impannelled, sworn and affirmed in this cause, upon the evidence produced to them, That the facts set forth in the claim

claim of Robert Shewell, William Shirtliff, James Seagrove and William Constable, are true ; I do thereupon adjudge and decree, That the schooner *Charming Nancy*, with her tackle, apparel, furniture and cargo, be acquitted, released and discharged from the capture made by the said Samuel Ingerfoll and Joseph Cooke.

JOHN IMLAY.

September 22, 1779.

Pennsylvania, ff.

I Andrew Robeson, register of the acts, matters, causes and business done and transacted in the court of commissioners of appeal for the United States of America, do hereby certify the above to be a true copy of the decree passed and published in the above cause, by the Honorable John Imlay, Esquire, judge of the admiralty of New-Jersey, and transmitted by the said court, in the record of the said cause, to the said court of appeal, and now remaining in my office at Philadelphia,

In testimony whereof I have hereto set my hand and seal, at Philadelphia, the thirty-first day of December, Anno Domini 1779.

ANDREW ROBESON, *Reg. R.*

The general, with respect to the second charge, produced a deposition of Elias Boudinot, (19) which being read, is as follows :

Mr. Boudinot's state of facts, relative to General Arnold's shutting up the shops in Philadelphia, in 1778, as far as he can recollect, given at General Arnold's request.

It will be necessary to premise, that the transactions referred to happened eighteen months ago ; since which I have been afflicted with a severe indisposition for ten months :
therefore

therefore cannot but speak with great diffidence as to particular circumstances.

Being at Philadelphia when General Arnold took possession of the city, I called on him several times, and found him in a state of health, which I thought rendered him unequal to the fatigue of his then station. He was much crowded with business, and I ventured to warn him of the ill consequences of so much attention to it, and advised to several regulations I thought necessary. He shewed me certain resolutions of congress relative to the goods that should be found in the city, until the arrival of joint committees of congress and the executive council, and the public officers who were to purchase for the army, or something to this effect.

I advised the general to the issuing of public orders, to prevent the selling of goods until the arrival of the committees aforesaid, and also to nominate a number of the citizens of established character, to superintend and regulate the little affairs of the citizens in the mean while, so as to prevent his being perplexed with the civil as well as military department; and I mentioned several gentlemen, whose political characters I thought he might depend on. While we were talking, Mr. Joseph Reed, (now his excellency the president of the state) then also a member of congress, came in, and told the general he had been making a few memorandums of some little matters which he (Mr. Reed) thought necessary for his attention, and which otherwise might escape the general's notice. Mr. Reed then read them from a paper he produced, and I immediately told him they were very similar to what I had just been recommending to the general, and repeated to him what I had been saying. He replied, that he had the substance of it down, except one or two hints,

hints, which one of us immediately added to the paper he had. The general then begged, that we would draw up what we thought necessary, and he would have it printed. Mr. Reed then sat down and drew up a draught of what he thought proper, and I believe I corrected it, but am not certain. I cannot with certainty ascertain the particulars of this draught, but am clear in my own mind, that it contained the amount of what we both advised the general to, and particularly to the prevention of the sale of goods, until the orders of congress were complied with. And my reason for this is, that I well remember to have advised several friends to be careful not to sell the next day, as such a public prohibition had gone to the press.

Balkenridge, January 3, 1780.

ELIAS BOUDINOT.

Sworn in the presence of General Arnold, and at his request, the 8th day of January, 1780. Before

JOHN LAWRENCE, *Judge Advocate.*

With respect to the last charge, the general produced Colonel Mitchell, D. Q. M. G. who being sworn, says, About the middle of October last, General Arnold sent for me; on waiting on him, he informed me he wanted ten or twelve waggons to go to Eggharbour to bring some goods, which were in danger of falling into the enemy's hands, and that he would pay the expence. I informed him, I had none at that time could be spared from public service; but when there was, I would send the waggon master to him. He asked me, if there was not waggons sent to Eggharbour with forage and provisions, and if they could not bring a load back for him. I answered, yes, there were several sent, but I believed they were now returning; that if I had occasion

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tion to send any more with either provision or forage, and there was no public stores to bring up, they might load for him, and it would save the public half the expence, as he must pay the hire back ; this he seemed pleased with, but not having occasion to send any of the articles above-mentioned, the general sent to me several times to know, if I could let him have the waggons ; my answer was, he should have the first could be spared without injury to the public service. On the 22d of October, Jesse Jordan, a waggon master from Chester county, came to town with twelve teams ; a memorandum of which was put in the memorandum book. A considerable quantity of stores being forwarded to North river, and some continental teams coming in, which were not expected, and the general being desirous to have the waggons sent, to save the property at Eggharbour from falling into the hands of the enemy, I desired Mr. Jordan to go to General Arnold, who wanted him to go to Eggharbour, and that he would pay him, and give him his directions. Mr. Jordan accordingly went from me, and, I believe, called on the general. From that time I heard nothing farther on the subject, till Mr. Jordan had returned, when he was told to call on General Arnold for his pay ; in answer to which he said he would not stay at that time to make out a pay roll, but would return and get his pay, or words to that effect. And after he was gone home some time, I asked one of the clerks if he heard whether Jordan was paid by General Arnold. I think he said he did not know. I afterwards saw the general, who told me the waggon master had not called on him for his pay, and desired when I saw him I would let him know, or words to that purpose. I desired my clerk to be careful that Mr. Jordan's hire was not paid in my office, and to

pay no rolls without my approbation. From this time, about the beginning of November, I heard nothing of the matter that I can recollect, till the secretary of the executive council wrote me for what information I could give them respecting the waggons sent by General Arnold to Eggharbour, to which request I gave the following answer, dated the 19th January.

Philadelphia, 19th January, 1779.

SIR,

I this day received an order signed by the secretary of the honourable council of this state, requesting I would give them information respecting a brigade of waggons under the conduct of Jesse Jordan, waggon master from Chester county; the council having been informed that I sent them to Eggharbour to convey private property to this city. I shall at all times be ready to give your excellency and the honourable council every information you think necessary for the good of the public, or this state in particular, which relates to my office, or the business of the department; as I have no desire to conceal any part of my conduct as a public officer, having conducted the business under my direction with integrity and justice to the public. The following are the state of the facts required, viz. In the month of October last, at the time the enemy had landed some troops at Eggharbour, General Arnold desired I would furnish him with a brigade of teams which he wanted to send to the Jerseys, and that he would pay the hire of them, they being wanted to remove property, which was in imminent danger of falling into the enemy's hands. I informed him he should have the waggon master of the first brigade,

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which could be spared from the public service, sent to him, when he would give him such orders as he pleased. Accordingly, about the 22d of October Mr. Jordan was sent to the general to receive his directions, having at that time sent forward a large supply for the army, &c. When Jordan returned, he was desired to make out his account to General Arnold to be paid. I do not know where the loading was stored, nor whose property it was, further than what is before mentioned. A greater number of continental teams coming in than I expected, enabled me to comply with General Arnold's request without any inconvenience to the service. If there is any thing further in which I can satisfy your excellency and the council, I will wait on you at any time with pleasure.

I have the honour to be, &c.

J. M.

His Excellency Joseph Reed, Esq.

Which I afterwards learned they sent a copy of to General Arnold. His excellency the president and council requested General Greene to direct that Mr. Jordan, a waggon master in his service might be sent for; on which I sent two expresses to enquire if he was in the quarter master's department, and if so, to send him up to wait on the president and council; but they returned with information that he was not in the service. This I informed his excellency of, who, if I can recollect, and to the best of my memory and recollection, said the council had laid the matter before congress, and therefore it was not necessary to send again for him. I offered to send any orders of his by express or otherwise, as he thought proper. The next I heard of this affair was on the 30th of January, when Mr. Jordan

Jordan came to town, and called at my office. I told him to go to General Arnold for his pay, that I had nothing to do with it, and asked him why he did not call for it long before that time. He answered he had been sick, and could not come to town, and I think said he was sick when he returned from Eggharbour. I told him he must wait on the president and council before he left town; that they had sent for him, and it was necessary he should call on them. I also asked him if he had made any complaints to Colonel Boyd, and for what reason he did make such complaints. He said, he had made none, nor had he seen Colonel Boyd since his return from Eggharbour; but he believed some of the waggoners had made some complaints which he had never seen. On this he went from me, as I believe, to General Arnold, and returned with a note from him to me, as follows, viz.

The waggons were sent to me the 22d, and discharged the 29th, and were employed eight days each, is 96 days, at

N. B. If Colonel Mitchell will make out the account, I will pay it, as the waggons were not sent in on purpose for me, I think it will be right to pay only for the time they were employed.

(Signed)

B. ARNOLD.

Saturday.

To which I answered immediately,

SIR,

Mr. Jordan is entitled to pay from the day he left home, and as he was not employed in public service, but sent to you on his arrival, it is but just he should be paid by the person who employed him; but if you order I should pay him

him any part of the time due him for hire of his teams I will obey your order.

I have the honour to be, with respect,
 Sir, your most obedient, humble servant,
 J. MITCHELL.

January 30, 1779.

Hon. Major General Arnold.

This answer was sent directly to the general. Whether Mr. Jordan went to him then or not, I do not recollect; but on producing his pay roll, I found he had charged as if he received forage, which surprized me much, not having been informed or known he had drawn any forage for more than one day; on which I sent to the forage master to know the truth of it, who returned me an account that he had drawn forage. I then desired he would make out his pay roll as if he had not forage, and to pay the amount of the forage to Owen Biddle, Esq; agent for the com. gen. of forage. Mr. Jordan had made an account out for two days more than he was entitled to. I told him of it, and the mode established for payment of teams, and that it was agreeable to the waggon law, and the opinion of the late waggon master general, James Young, Esq. He seemed not contented with this deduction of two days at first, but on my assuring him it was the usual and customary time, and offering to shew him several pay rolls settled agreeable to the law, and what I then said, and that I insisted on the matter being settled before he left town, as I wished to be clear of any further trouble with it, and desiring him not to neglect to call on the president of this state, and informing him where he lived, he asked for paper, pen, and ink, and liberty to make out his pay roll in the office, all which were granted him, he seemed to me perfectly satisfied, contented,
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and in good humour. I assisted him in bringing out the amount, and I believe the clerk cast it up for him. He left me in this disposition, and went to General Arnold to receive his money, but soon returned and said, the general was out. I told him to call on him again, and let me know if he refused to pay him. From that time I never saw Mr. Jordan, but once at some distance. General Arnold called on me on the Monday, Tuesday, or Wednesday following, I cannot recollect which, and asked me if I heard any thing of Mr. Jordan; that he wanted to pay him; that he was going out of town; that he would leave the money with Major Clarkson, and requested I would send Mr. Jordan to him to receive his money; but if he would not come, begged I would send for Major Clarkson, who would bring the money. I have omitted to mention in the proper place, that on Mr. Jordan's return, he was told to call on General Arnold for his pay; in answer to which he said, he would not stay at that time to make out his pay roll, but would return and get his pay, or words to that purpose. On looking at a memorandum book in the office, kept to assist my memory and my clerk's only, I saw the words, "Gone to Eggharbour, by order of General Arnold," opposite to the word Jesse Jordan, W. M. 12 teams, Chester county, as here put down. I told the clerk, General Arnold did not give me orders to send him, and therefore it should be, "Went to Eggharbour by directions of General Arnold," which he immediately altered; and on observing on the other side, 30th, Jesse Jordan returned from Eggharbour, I told the clerk, as I did not think I had any concern with the waggons after they had been sent to General Arnold, that those words were unnecessary, and desired he would strike it out, which he did immediately. This happened

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the week after Jordan was at my office last. On General Arnold's return, he sent to let me know, he wanted a certificate of what passed respecting the waggons and the payment. As I wished to avoid any further concern in this matter, I did not go to wait on him, till he sent several times. When I waited on him, he was in his chamber; he told me what he sent for me was, to give him a certificate of what I knew respecting the waggons he sent to Egg-harbour, and what I knew respecting his desire to pay them, as the council had charged him with refusing to pay them. I answered, I was very desirous to have no further concern in the affair; that I had informed the president and council what I knew of it, a copy of which I believed he had, and that I had also given a committee of congress what information I could; that I would freely go before any authority that had a right to enquire into it, and give my testimony, but I could not give any certificate, or have my name in the public papers, which might subject me to disagreeable answers, as the papers were full of vindictive and abuse on many respectable characters. He said, it was very cruel and hard to be refused a true state of the matter, and shewed me a paper he had wrote, I believe read it, I also read it, when he asked me, if it was a true state of the matter. I answered, it might be near it, but if I signed any I would write it myself; that the words were not expressed as I would do, if I gave any, but still requested he would not insist on it, and wished he would excuse me; and also said, I would relate the matter, if he would not publish it; but his answer was, that would not do, as he wanted the facts to publish. I endeavoured to excuse myself, but he earnestly requested, as a gentleman, I would give him a state of the matter, and requested I would take the paper home,

home, and send him a certificate. I told him, I would consider of it, and let him know. On full consideration, I was still desirous of avoiding any thing that was to be published with my name; but on his sending to me several times for a certificate, I wrote one, which, on consulting a friend, whose opinion I esteemed, he thought an improper one, on which I was determined to give a copy of my letter to his excellency, of the 19th January, which is before recited; but from the words, on Saturday, the 30th January, as recited in the former part of this narrative, was added as what passed respecting the payment. This I sent to the general, who returned it the next morning, desiring I would send him a certificate. I told the gentleman who brought it, I could give no other than that. He said he believed it would not do. I answered I would do no more. Afterwards the paper he gave me, was sent for, (as I kept no copy, do not recollect the contents) which I returned. The general afterwards called on me, and requested I would give him a certificate. I assured him I could give no other, and wished he would excuse me. He seemed displeas'd at my answer, and said another gentleman's influence, naming him, was greater than his. I assured him I was not influenced by any one, and only wanted to avoid any publication, but that he might have the letter I wrote him. He took it, and left me, as I thought displeas'd. And thus this matter ended, having had no conversation with the general on the subject since.

On the 18th of February, I received a letter from Colonel Pettit, A. Q. M. Gen., enclosing a letter from the secretary of council, desiring a certificate of the entry of the waggons sent to Eggharbour, of the ferries they
crossed

crossed, and of their return; to which gave the following answer:

Philadelphia, 18th February, 1779.

DEAR SIR,

In answer to your's of this morning, I have to inform you, that I have no other entry of Jesse Jordan, W. M. than a memorandum of his coming to my office, on the 22d October last, when he was desired to call on General Arnold, who wanted him to go to Eggharbour, that he would pay him, and give him directions. From that time I conceived Mr. Jordan's waggons to be totally discharged from being under my directions. I therefore neither gave him orders to go to any ferry, or any kind of instructions, but what is mentioned above. I do not know at what ferry he passed, either going or returning. I shall at all times most cheerfully give the president and council every information and satisfaction, on this or any other transaction in my department, which they may require. All that I know of the matter, I have communicated to them.

I am with sincere esteem,

Dear sir, your's, &c.

J. M.

On the 23d or 24th of February, Colonel Pettit called on me for a certificate of the entry; as it was esteemed by the council to be one, I gave him one immediately. The 22d I received another letter from Colonel Pettit, requesting I would give a certificate of an entry of discharge of the waggons, or that there was none. To this I gave the following answer, viz:

DEAR

DEAR SIR,

I received your note of this morning. Am sorry to find the honourable president and council should think any information was withheld from them by me, or any gentleman in the department. I am conscious, I have never refused or delayed giving them any information that was required. My letter to you of the 18th, was as full, and conveyed every intelligence I could give you. There is no entry of discharge, or of Mr. Jordan's teams, or any other entry whatever, save the one I gave you the 20th instant, which was fully contained in mine of the 18th. The reason was there fully explained.

I am, dear sir, your's, &c.

J. M.

Colonel Charles Pettit, *A. Q. M. Gen.*

On the 23d of February, Colonel Pettit called on me to ask me for the memorandum book, to shew to the council. I told, he should have any book I had, with pleasure, from this time to the 25th, when I was directed to appear before council, by their order of the 24th.

Q. By General Arnold. After the waggons had been employed, and previous to any charge made against me for the same, did I not several times send to you for the account, or to direct the waggon master to call on me, that I might pay him?

A. You did.

Q. By ditto. Did Mr. Jordan ever inform you that I had refused payment?

A. Jordan did not tell me that you had refused to pay him, but had refused to pay the pay roll, as it was made

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out,

out, and I understood from you, that you wanted to know what you had to pay him.

Q. By ditto. Do you know whether Jeffe Jordan saw me, after his pay roll was properly made out?

A. I do not ; but he told me he called, and you were not at home.

Q. By ditto. Do you know the reason why he did not see me after his pay-roll was made out, to get his money?

A. I do not know, having no conversation with him after the answer before given.

Q. By ditto. When you gave Jeffe Jordan orders to call on me for instructions, did you think he understood that he was discharged from the public service?

A. I am not certain that he understood it so, but that was my meaning, as I was busy at the time, and did not explain myself more particularly. I had usually given written instructions, but did not give Jordan any, and for this reason I thought he understood he was discharged from the public service.

Q. Were these waggons drawn from the state of Pennsylvania for the public service?

A. Yes.

Q. Was not a great demand made on the state of Pennsylvania by you, about that time, or a short time previous to it, for waggons for the public service?

A. Yes, for a considerable number, but the number I do not recollect, in consequence of applications made from the different departments to me for that purpose.

Q. Were these waggons part of the number that were demanded?

A. I believe they were.

Q. Did General Arnold know of there having been a
great

great demand made on the state for waggons, when he applied to you for a number of them ?

A. I believe he did.

Q. Did you consider General Arnold's application to you for waggons as a request, or an official order ?

A. General Arnold being commanding officer in the state, he made that request to me, and I conceived it as my duty to oblige him as my superior officer in every thing in my power, which I would not have done to any other officer in the United States, who was then present. General Arnold having made that request to me, and telling me the reason, that it was to remove property that was likely to fall into the hands of the enemy, I complied with it, thinking it was my duty to do so, he paying all the expence.

Q. Were not General Arnold's orders during his command in Philadelphia generally couched in terms of request or desire ?

A. They were generally polite, and such as one gentleman would write to another.

Q. Did you conceive that you would have been accountable officially to General Arnold for your conduct, had you refused a compliance with his request for the waggons ?

A. I did not consider that matter at the time the request was made.

Q. Did you conceive yourself at liberty either to comply with the request or refuse it ?

A. From the request being frequently repeated, I conceived that I could not refuse it without incurring his displeasure, as commanding officer.

Q. Had you thought the request official, would you not have complied with it without a repetition ?

A. Had

A. Had it been communicated to me in writing, I should have complied with it immediately.

Q. Court. Did you think the refusal of the request would or could have been treated as a disobedience of orders?

A. I did not think of it in that point of view at all. General Arnold having requested of me waggons to bring off property then in danger of falling into the hands of the enemy, I conceived it my duty to let him have them, as soon as it could be done without injury to the public service, he paying the whole expence.

Q. Did you put these waggons into General Arnold's hands in the usual course of your official business?

A. General Arnold having requested of me waggons to bring off property then in danger of falling into the hands of the enemy, I conceived it my duty to let him have them, as soon as it could be done, without injury to the public service, he paying the whole expence.

Q. Did not the waggon master of the state of Pennsylvania, in his letters, tell you, the waggons could not go out of the state, and remonstrate against the great call?

A. There was a hundred and fifty waggons called for from the quarter master of the state of Jersey; the time I do not recollect, but believe it to be some weeks before Jordan's waggons were sent to Eggharbour. Upon that request being made to furnish them the waggon master general of the state of Pennsylvania remonstrated against the great call for waggons, and gave as a reason that no waggons were to be sent to the state of Jersey, to carry stores from thence to the army, in consequence of which, none were sent to my knowledge.

Q. Do

Q. Do you know whether General Arnold knew of this remonstrance ?

A. I believe he did, but cannot be certain of it.

Q. What reasons had you to suppose the general knew of the remonstrance ?

A. No other than that the general was usually acquainted with every transaction I was, in the department, of that nature, and this matter was much talked of, not in his presence that I recollect ; and I believe some of the delegates of the state of Pennsylvania had a meeting with the waggon master general on that subject.

Q. By General Arnold. Don't you recollect when I applied for the waggons, that I requested the favour of you, if they could not be spared from the public service, to let your people hire me private waggons ?

A. At one time when you spoke to me upon the subject, you mentioned the words that you have now mentioned, and I told you it was impossible it could be done, or I would do it with pleasure. You then said, as soon as they could be spared from public service, you would be glad to have them.

Q. When you sent the waggon master Jordan to General Arnold, did you inform General Arnold that he was in public service with the waggons ?

A. I sent no notice to General Arnold at all ; only told the waggon master to call on him for his instructions, and that he would send him to the Jerseys and pay him.

Q. Had Jordan refused a compliance with your orders to go to General Arnold, would you have esteemed him accountable to you for his refusal ?

A. I would not.

Q. Court. Did you on reading General Arnold's note
of

of the 30th of January, conceive that it was General Arnold's intention that the public should pay any part of the hire of Jordan's waggons ?

A. I conceived from General Arnold's note, that he thought he only ought to pay for the time the waggons were sent to him until the day they returned ; but my opinion was, that he should pay from the time the waggons were called out into public service until they returned home. But I did not conceive that General Arnold meant by that, that the public should pay any part, but that it was a mistake in the manner of calculating the pay.

Q. If you conceived that General Arnold did not expect that the public should pay for any part of the hire of Jordan's teams, what was the reason of your mentioning in your's of the 30th of January, 1779, that if he ordered you should pay any part of the time due Jordan for the hire of his teams, you would obey his order ?

A. Because, as commander in chief, I should have considered his written order for that purpose, as a sufficient voucher to produce to the public.

Q. Court. Did General Arnold know any thing of the entries made in your memorandum book, or of the alterations or obliteration made afterwards ?

A. Not to my knowledge.

Q. Court. Were these alterations or obliterations made in the book previous to an inquiry being made into the general's conduct, or subsequent ?

A. The alteration was made immediately after the entry ; the obliteration within a few days after the 30th of January, but the particular day I cannot recollect.

Q. Do you know the political general characters of Mr. James Seagrove, or Captain Robert Shewell, Junior ?

A. I

A. I know very little of either of them, but I have heard and thought before we got into Philadelphia that they were disaffected persons. Captain Robert Shewell, Junior, was always thought to be a disaffected person. Mr. Seagrove, at New York, paid particular respect to General Washington, and I considered him at that time as a good whig, but his coming into Philadelphia, while the enemy were there, induced me to alter my opinion of him.

The court adjourned until to morrow eleven o'clock.

January 20.

The court met agreeable to adjournment.

Q. To Colonel Mitchell. What time was Jordan's brigade of waggons to continue in the public service, when they were ordered out?

A. I think the law of the state, to the best of my remembrance, says thirty days.

Q. Did Jordan's brigade of waggons or any part of them continue in the public service, after their return from Egg-harbour?

A. Not one of them, to my knowledge. I was afterwards told, some of them came out in another brigade, but I did not know them as such.

Q. Was the time they were employed by General Arnold considered by you, or the waggon master of the state, as part of their tour of duty?

A. It was not considered by me, otherwise I should have detained them until it was over; but as they were sent to General Arnold, I did not consider I had any charge of them, not considering them to be in public service. I do not know how the waggon master considered the time they

were

were employed, having had no conversation with him upon the subject, to the best of my recollection.

Q. In what manner were waggons usually discharged from the public service, after they had completed their tour of duty?

A. By paying them for the time they served, and letting them go home. No written discharge being given.

Q. How long had Mr. Jordan been in town with the waggons under his care, before he was ordered by you to go to General Arnold for instructions?

A. To the best of my recollection, he was ordered to go to General Arnold for instructions the morning I knew of his arrival, but the hour of the day I do not recollect.

Q. Did you not order Jordan to proceed with his waggons to one of the public stores, on his arrival in town, to take a load of stores for camp?

A. To the best of my recollection or knowledge, I did not.

Q. By General Arnold. When I applied for the waggons, did not you tell me, that there were frequently public waggons lying idle in town, when provisions did not arrive to load them, as expected, in which case, they could be spared and it would be a saving to the public, as they were obliged to pay for the hire of the waggons when called out, whether they were employed or not?

A. I do not recollect my telling you so, but the circumstances have happened. At that time there were no more waggons called for from the state, but what could be employed; but a number of continental teams coming in, which I did not expect, enabled me to let you have the waggons at that time.

With respect to the last charge, Dr. Gardiner was produced

duced by the judge advocate, and sworn, upon his being desired to give the court what information he was possessed of concerning it : he said as follows :

That upon the return of Jordan's brigade of waggons from Eggharbour to Philadelphia, he then being in the city, upon public business, was called upon by some persons belonging to the brigade, to visit a sick waggoner ; he went with them to the continental yard, where the waggons were standing, and finding the man very ill, in the first stage of a nervous fever, he proposed giving him some medicines, and at the same time advised them to send him home, as he, the deponent, supposed his disorder would be tedious. Some difficulties arising with respect to the method of sending him, they at length agreed to try, if the whole brigade could obtain a temporary discharge, upon their promising to return again in a short time, and perform the remainder of their tour. They told him, they did apply, and were accordingly discharged or permitted to return, upon the aforesaid condition. Sometime afterwards, a complaint was made by Col. Young, waggon master general of the state of Pennsylvania, to some members of the general assembly, then sitting, with respect to some abuses of the waggons, called out under the law for public service, being employed in private service, and particularly with respect to the misapplication of Jordan's brigade, in removing private property from Eggharbour, and at the same time drawing forage and rations from the public magazines. The members seemed disposed to have taken up the matter, but being about to rise in a short time, and thinking that the matter might be taken up in another channel, some of the members advised Colonel Young to lay the case before the executive authority of the state, which he, the deponent, afterwards heard he did. He then

heard but little more of the matter, 'till, he thinks, in the latter end of January, or the beginning of February, when Jordan called at his house in Philadelphia, and told him, that he had considerable delays in receiving pay for the service of his brigade last fall, and requesting his advice as a friend, what steps would be most advisable for him to take, to have the matter settled. He, the deponent, asked him for his papers; he shewed him two pay-rolls, or one altered pay-roll; one charged to the United States, and the other charged to General Arnold. The latter, or the alteration, Jordan told him he made in consequence of Colonel Mitchell's directions. He likewise shewed him (the deponent), his orders from General Arnold, signed by a Mr. Franks as one of his aids. He asked Jordan what reason General Arnold gave for not discharging the debt. He answered, that General Arnold was not willing to pay for more than six or seven days service, which was the time he was performing his journey from Philadelphia to Eggharbour and back again. He advised Jordan to apply to the executive authority of the state, and accordingly went with him to Mr. Bryan's, who was then vice president of the state. He likewise accompanied the vice president, and Mr. Clingan, one of the delegates of the state of Pennsylvania, and Jordan, to the president's.

Q. Had you any other information that Jordan's brigade of waggons was discharged from the public service, or permitted to return, upon their promising to return again in a short time and perform their tour of duty, but what you had from the waggoners?

A. None.

Q. Court. Do you know to whom they applied for permission to return home?

A. I

A. I do not ; but I was present when they made the agreement to apply, and they agreed to apply to Colonel Mitchell.

Q. Court. Do you know whether Jordan's brigade returned to complete their tour of duty ?

A. Not as Jordan's brigade. One of the waggons being sick, and Jordan's quitting the service at that time, several of the waggons came out under another waggon master : but I cannot say whether they came out to complete their former tour of duty or not.

Q. By General Arnold. Did Jesse Jordan inform you that I had refused him payment for the hire of his waggons ?

A. Jesse Jordan informed me that he went to Colonel Mitchell to get his pay, having his pay roll drawn in its usual form ; that Colonel Mitchell informed him that the pay roll was wrong, that the United States were charged, but you ought only to be charged ; that agreeable to Colonel Mitchell's orders he altered the pay roll or drew a new one, I cannot tell which, in which he charged you instead of the United States ; that after the pay roll was made out in that manner, Colonel Mitchell gave him a note to you, and desired him to call on you, which he said he delivered to you, and when he called, you refused paying him for the number of days charged in the pay roll, which were twelve or thirteen, and made some difficulties as to paying him for six or seven days ; that he then returned to Colonel Mitchell with a note or message from you, with respect to the number of days he was in service ; that when he came to Colonel Mitchell he again sent him back to you ; not finding you at home, he returned to Colonel Mitchell's, and after telling him of it, Jordan said he would give over any attempts to get the money in that manner ;
that

that he was employed by Mr. Boyd, and would apply to him about it; upon which Colonel Mitchell told him he must not attempt to go away without settling it, or he would put him in the guard house; he further told me, he put his papers quietly in his pocket and slipped off, being fearful that he should be put in the guard house, and he told me he did not make any other attempt to get payment at that time.

Q. By General Arnold. Did you not understand that there was some intimation given by some of the council to Colonel Boyd, Colonel Young or Jordan, or some other person, to make a complaint respecting the waggons; or was the complaint made without the knowledge or desire of the council or some member of it?

A. No member of the council, to my knowledge, influenced any person to make the complaint.

Q. By do. Do you know whether Jesse Jordan called on the president and council voluntarily, or was sent for when he was paid a sum of money for the hire of his waggons?

A. I believe he came voluntarily.

Q. By do. Do you know whether the president or any member of the council advised or wrote a letter to Jordan desiring him to make out his account, and charge eighty pounds for each waggon, and to apply to the attorney general to commence an action for the money?

A. I do not.

The judge advocate, in addition to the other evidence before the court, desired permission to produce a certificate of the speaker of the house of assembly, of the state of Pennsylvania, to shew how the complaint by the executive council of the state of Pennsylvania against Major General Arnold,

Arnold, for employing Jesse Jordan's brigade of waggons, originated, which was granted. The certificate was produced, and authenticated by Dr. Gardner. On being read, it is as follows :

This is to certify, that some time in the fall of the year 1778, during the fitting of the house of assembly, and near the close thereof, James Young, Esq. waggon master general of the state, applied to me as speaker of the house, informing, that he had proof of a brigade of waggons, called out under the law of the state, being employed for private purposes; at the same time requesting that a supplement might be made to the law, to prevent like abuses in future. But as the house was greatly hurried with other important business, and were anxious to rise. I mentioned the matter to his excellency the president, and some other members of the council, who thought it would be best for the waggon master to lay the affair before council in writing; in consequence of which, some weeks after, information was given to council.

JOHN BAYARD.

Philadelphia, Jan. 11, 1780.

The court adjourned until to morrow eleven o'clock.

January 21.

The court met agreeable to adjournment.

Mr. Nicholson was produced by the judge advocate relative to the second charge against the general and sworn. After he was examined, the judge advocate moved that the matters he mentioned be not inserted in the proceedings of the court, as not applying to the charge against the general. The court having considered them were of opinion, that

that they did not apply to the charge against the general, and should not be inserted in the proceedings.

The evidence being closed, Major General Arnold addressed the court, as follows :

Mr. President, and gentlemen of this honourable court :

I appear before you, to answer charges brought against me by the late supreme executive council of the commonwealth of Pennsylvania. It is disagreeable to be accused ; but when an accusation is made, I feel it a great source of consolation, to have an opportunity of being tried by gentlemen, whose delicate and refined sensations of honour, will lead them to entertain similar sentiments concerning those who accuse unjustly, and those who are justly accused. In the former case, your feelings revolt against the conduct of the prosecutors ; in the latter, against those who are deserved objects of a prosecution. Whether those feelings will be directed against me, or against those, whose charges have brought me before you, will be known by your just and impartial determination of this cause.

When the present necessary war against Great Britain commenced, I was in easy circumstances, and enjoyed a fair prospect of improving them. I was happy in domestic connections, and blessed with a rising family, who claimed my care and attention. The liberties of my country were in danger. The voice of my country called upon all her faithful sons to join in her defence. With cheerfulness I obeyed the call. I sacrificed domestic ease and happiness to the service of my country, and in her service have I sacrificed a great part of a handsome fortune. I was one of the first that appeared in the field, and from that time, to the present hour, have not abandoned her service.

When one is charged with practices, which his soul abhors,

abhors, and which conscious innocence tells him, he has never committed, an honest indignation will draw from him expressions in his own favour, which, on other occasions, might be ascribed to an ostentatious turn of mind. The part which I have acted in the American cause, has been acknowledged by our friends, and by our enemies, to have been far from an indifferent one. My time, my fortune, and my person have been devoted to my country, in this war; and, if the sentiments of those who are supreme in the United States, in civil and military affairs, are allowed to have any weight, my time, my fortune, and my person have not been devoted in vain. You will indulge me, gentlemen, while I lay before you some honourable testimonies, which congress, and the commander in chief of the armies of the United States, have been pleased to give of my conduct. The place where I now stand justifies me in producing them.

Valley Forge, 7th May, 1778.

DEAR SIR,

A gentleman of France having very obligingly sent me three sets of epaulets and sword knots, two of which, professedly, to be disposed of to any friend I should choose; I take the liberty of presenting them to you and General Lincoln, as a testimony of my sincere regard and approbation of your conduct.

I have been informed by a brigade major of General Huntington, of your intention of repairing to camp shortly; but notwithstanding my wish to see you, I must beg that you will run no hazard by coming out too soon.

I am sincerely and affectionately,

Your obedient,

G. WASHINGTON.

Head

Head Quarters, Morris Town, May 8th, 1777.

DEAR SIR,

I am happy to find, that a late resolve of congress, of the 2d instant, has restored you to the continental army.

The importance of the post at Peek's Kill, and its appendages, has become so great, that it is now necessary to have a major general appointed to the command of it.

You will therefore immediately repair to that post, and take charge of it, till a general arrangement of the army can be affected, and the proper province of every officer assigned.

I am, sir,

Your most obedient servant,

G. WASHINGTON.

IN CONGRESS,

11th July, 1777.

Ordered, That an extract of General Washington's letter of the 10th, so far as it relates to General Arnold, be sent to him; and that he be directed to repair immediately to head quarters, and follow the orders of General Washington.

Extract from the minutes,

CHARLES THOMSON, *Secretary.*

Extract of a letter from GENERAL WASHINGTON to Congress, dated Morris Town, July 10th, 1777.

“ If the event mentioned by General Schuyler should not have happened, we cannot doubt, but General Burgoyne has come up the lake, determined, if possible, to carry his point, I mean, to possess himself of our posts in that quarter, and to push his arms further. Supposing this not to have happened,

happened, as our continental levies are so deficient in their number, our security and safety will require, that aids from the militia should be called forth, in cases of emergency. If it has, there is now an absolute necessity for their turning out to check General Burgoyne's progress, or the most disagreeable consequences may be apprehended. Upon this occasion, I would take the liberty to suggest to congress, the propriety of sending an active, spirited officer to conduct and lead them on. If General Arnold has settled his affairs, and can be spared from Philadelphia, I would recommend him for this business, and that he should immediately set out for the northern department. He is active, judicious and brave, and an officer in whom the militia will repose great confidence. Besides this, he is well acquainted with that country, and with the routs and most important passes and defiles in it. I do not think he can render more signal services, or be more usefully employed at this time, than in this way. I am persuaded his presence and activity will animate the militia greatly, and spur them on to a becoming conduct. I could wish him to be engaged in a more agreeable service, to be with better troops; but circumstances call for his exertions in this way, and I have no doubt of his adding much to the honour he has already acquired."

Examined with the original.

GEO. BOND, *Dep. Sec. of Congress.*

IN CONGRESS.

May 20, 1777.

Resolved, That the quarter master general, be directed to procure a horse, and present the same properly caparisoned, to Major General Arnold, in the name of this congress, as a token of their approbation of his gallant conduct,

in the action against the enemy, in their late enterprize to Danbury, in which General Arnold had one horse killed under him, and another wounded. (20)

IN CONGRESS.

November 4th, 1777.

Resolved, That the thanks of congress, in their own name, and in behalf of the inhabitants of the thirteen United States be presented to Major General Gates, commander in chief of the northern department, and to Majors General Lincoln and Arnold, and the rest of the officers and troops under his command, for their brave and successful efforts, in support of the independence of their country, whereby an army of the enemy of ten thousand men, have been totally defeated; one large detachment of it, strongly posted and entrenched, having been conquered at Bennington; another repulsed with loss and disgrace from fort Schuyler; and the main army of six thousand men, under Lieutenant General Burgoyne, after being beaten in different actions, and driven from a formidable post and strong entrenchments, reduced to the necessity of surrendering themselves upon terms honorable and advantageous to these states, on the 17th day of October last, to Major General Gates.

If these testimonies have any foundation in truth (and I believe the authority of those who gave them will be thought *at least equal* to that of those who have spoke, and wrote, and published concerning me in a very different manner) is it probable that after having acquired some little reputation, and after having gained the favourable opinion of those, whose favourable opinion it is an honour to gain, I should all at once sink into a course of conduct equally unworthy
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of the patriot and foldier? No pains have been spared, no artifice has been left untried to persuade the public that this has been the case. Uncommon assiduity has been employed in propagating suspicions, invectives, and slanders to the prejudice of my character. The presses of Philadelphia have groaned under libels against me, charges have been published, and officially transmitted to the different states, (and to many parts of Europe, as I am informed) before they were regularly exhibited, and long before I could have an opportunity of refuting them; and indeed every method that men ingeniously wicked could invent, has been practiced to blast and destroy my character. Such a vile prostitution of power, and such instances of glaring tyranny and injustice, I believe are unprecedented in the annals of any free people. I have long and impatiently wished for an opportunity of vindicating my reputation, and have frequently applied for it; but the situation of affairs at the beginning and during the continuance of the campaign, necessarily, and against the general's inclination, prevented it, until now. But now it is happily arrived, and I have the most sanguine hopes of being able to avail myself of it, by satisfying you, and, through your sentence, by satisfying the world, that my conduct and character have been most unwarrantably traduced, and that the charges brought against me are, *false*, *malicious*, and *scandalous*.

The first charge is, Granting a protection, &c. &c.

In answer, The permission was given on the fourth day of June 1778, when, though I had no formal instructions from the general to take the command in Philadelphia, I had intimations given me that I should be fixed upon for that appointment. The gentleman who applied for the protection in behalf of himself and company, was not then residing

in the city with the enemy ; he had taken the oath of allegiance to the state of Pennsylvania, required by its laws, as appeared by a certificate which he produced to me. What his political character, and those of the others, in whose behalf he applied to me, were, I pretend not to ascertain ; nor do I mean to become their advocate, any further than the justice due to an injured character requires. I think it has been clearly proved by the testimony of several gentlemen (not parties in this matter) that the general character of those gentlemen was unexceptionable, some of them had taken an active part in favour of these states ; and the tenor of their conduct since, will I presume justify a favourable opinion of them. It is enough for me to shew that their intentions with regard to this vessel and cargo seemed to be upright, and that the design of saving them for the use of the citizens of the United States, appeared to be laudable, instead of being reprehensible. This appears evident from the depositions of Mr. Collins, Mr. Beveridge, and Colonel Proctor.

Why the protection is viewed as an indignity to the authority of the state of Pennsylvania, I own I cannot discover. The president and council of that state were then in Lancaster ; the pass to the vessel was to “ fail into any of the ports of the United States of America.” To fail into the port of Philadelphia was not the object ; the vessel was there already. If there was an encroachment upon the authority of any state, it must have been some other than the state of Pennsylvania. The vessel failed into one of the ports of New Jersey ; the government of that state, though far from being insensible to its honour, has never complained of the indignity offered to it by my protection ; a jury of that state acquitted the vessel by their verdict ; and the judge
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of admiralty of that state confirmed the verdict by his decree, which is in evidence before this honourable court.

It is part of this charge that the permission was granted without the knowledge of the commander in chief, though then present. I think it peculiarly unfortunate that the armies of the United States have a gentleman at their head, who knows so little about his own honour, or regards it so little, as to lay the president and council of Pennsylvania under the necessity of stepping forth in its defence, perhaps it may be of use to hint,

Non tali auxilio eget, nec defensoribus istis.

The general is invested with power, and he possesses spirit to check and to punish every instance of disrespect shewn to his authority; but he will not prostitute his power by exerting it upon a trifling occasion; far less will he pervert it when no occasion is given at all.

His excellency knew, and you, gentlemen, well know, it has been customary for general officers of the army to grant passes, protections for persons and property, to the inhabitants of the United States, who appeared friendly to the same. The utility of the measure, which was evident in the present case, without any precedent, I conceived to be a sufficient justification. The protection was designed only to prevent the soldiery from plundering the vessel and cargo, coming from the enemy, that proper authority might take cognizance of the matter. I must beg leave to mention a resolution of congress in point. I do not recollect the date. It was, however, previous to the pass. That honourable body therein promise, to all persons in the enemy's service, for their encouragement and reward, all vessels and cargoes that

that they shall seize upon, in possession of the enemy, and bring into any of the United States. If such reward is given to our enemies, can it be esteemed criminal to protect the property of the citizens of these United States, when coming from the enemy. Certainly not. At the time the protection was given, I had no doubt of the right or propriety of giving it. I am now confirmed in my opinion, and that the resolution of congress I have mentioned, warrants the measure. But, if strictly considering the matter, it shall be thought that I exceeded my power, by granting the protection, I hope His Excellency General Washington, and this honourable court, will do me the justice to believe, that it was not out of any disrespect to his authority, but an error in judgment, as I was convinced at the time I had a right to grant the pass; and had I refused I should have thought myself culpable.

The second charge consists in having shut up the shops and stores on my arrival in the city, so as even to prevent officers of the army from purchasing, while I privately made considerable purchases for my own use, *as is alledged and believed.*

The resolution of congress, “directs me to take early and proper care to prevent the removal, transfer, or sale of any goods, wares, or merchandize, in the possession of the inhabitants of the city, until the property of the same shall be ascertained by a joint committee, consisting of persons appointed by congress, and of persons appointed by the supreme executive council of the state of Pennsylvania.” My instructions from the general mention, “that I will find the objects of my command specified in the resolution of congress, and that the means of executing the powers vested
“in

“in me were left to my own judgment.” How could I better prevent the removal, transfer, or sale of any goods, wares and merchandize, in the possession of the inhabitants of the city, “than by shutting up the shops and stores?”

“If “the officers of the army were prevented from purchasing,” it was because the sale of *any* goods was directed by congress to be prevented, in which the sale of goods to officers was necessarily included; and it was in order (as is stated in the proclamation prohibiting the removal, sale, or transfer of goods) “that the quarter master, commissary and “clothier generals, might contract for such goods, as were “wanted for *the use of the army*.”

What I have already mentioned, renders it surprising that the shutting up the shops and stores should be made a charge against me by *any man*, or body of men: what I am going to mention, renders it peculiarly surprising that this charge should be made against me by the gentleman, who is now president of the state of Pennsylvania. It is in evidence before this honourable court, that this very gentleman proposed to one of my aids, that he, even before my arrival in town, “should publish an order to prevent the selling any “goods or merchandize; that this very gentleman was “urgent to have this done; that this very gentleman, after “my arrival in town, drew up a proclamation for that purpose, which was presented to me.” The same gentleman now exhibits the same measure as an article of accusation against me.

The last part of this charge is of a serious nature indeed: it is that, while I prohibited others from purchasing, I privately made considerable purchases for my own benefit, “as is “*alleged and believed* ;” if this part of the charge is true, I stand confessed, in the presence of this honourable court,

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the vilest of men ; I stand stigmatized with indelible disgrace, the disgrace of having abused an appointment of high trust and importance, to accomplish the meanest and most unworthy purposes : the blood I have spent in defence of my country, will be insufficient to obliterate the stain.

But if this part of the charge is void of truth ; if it has not even the semblance of truth, what shall I say of my accusers ? what epithets will characterize their conduct, the sentence of this honourable court will soon determine.

It is “ *alleged and believed,*” that I privately made considerable purchases for my own benefit. I am not conversant in the study of jurisprudence ; but I have always understood, that *public* charges ought to have some other foundation to rest upon, than mere unsupported “ *allegation* and “ *belief.*” Who “ *allege and believe* ” this accusation ? None, I trust, but the president and council of Pennsylvania ; because, I trust, none else would allege and believe any thing tending to ruin a character, without sufficient evidence. Where is the evidence of this accusation ? I call upon my accusers to produce it : I call upon them to produce it, under the pain of being held forth to the world, and to posterity, upon the proceedings of this court, as public defamers and murderers of reputation.

They have indeed produced the evidence of a certain Colonel Fitzgerald, to prove that he saw an anonymous paper in the hands of Major Franks, one of my aids. I shall take no notice of the paper he alludes to, as it cannot be deemed a proof, or admitted as evidence ; but the manner of his procuring a sight of the paper, I cannot help taking notice of : lodging in the same house with Major Franks, in his absence, Colonel Fitzgerald’s *curiosity prompted him to examine Major Franks’s papers,* when he stumbled upon a
secret

secret too big for him to keep. Was not this a gross violation of the confidence subsisting between gentlemen? but what shall I say of the use this gentleman made of his secret? I will not say it was a disgrace to the character of a soldier and gentleman. I will leave it to the gentleman's own feelings, which (if he is not callous) will say more to him than I can possibly do on the subject. In the nature of things, it is impossible for me to prove, by positive and direct evidence, the *negative* side of a charge: but I have done all that in the nature of things is possible.

On the honour of a gentleman and soldier, I declare to gentlemen and soldiers, that the charge is false.

My aids de camp were acquainted with my transactions, and had access to my papers: "My invoice, my minute and account books, were always open to their inspection." Could I have made considerable purchases, without their knowledge? "And yet they did not know of my making any purchases of goods of any kind, directly or indirectly; and they had every reason to think, that no such purchases were made, either by me or my agents, except a few trifling articles to furnish my table, and for my family's use; most of which were supplied me by the quarter master, commissary and clothier generals."

If I made considerable purchases, considerable sales must have been made to me by some person in Philadelphia. Why are not these persons produced? Have my prosecutors so little power and influence in that city, as to be unable to furnish evidence of the truth?

With respect to the third charge of the supreme executive council of the state of Pennsylvania, I think it necessary to make some observations on it, because it is evidently calculated, by a false colouring of a trifling and innocent transaction,

action, to subject me to the prejudice of the freemen of these states, and particularly of the militia of the state of Pennsylvania.

I am charged "with imposing menial offices upon the
 "sons of freemen of this state, when called forth by desire
 "of congress to perform militia duty; and when remon-
 "strated to thereupon, justifying myself in writing, upon the
 "ground of having power so to do." The letters which are in evidence before this honourable court, which passed between Mr. Secretary Matlack and myself, will explain the sole transaction, upon which this general accusation is founded.

By what strained construction the sentiments which I have expressed, "that when a citizen assumes the character
 "of a foldier, the former was entirely lost in the latter," should be extended to a justification of myself, on the mere *principal of power*, is somewhat extraordinary. My opinion in this matter is confirmed, not only by the sentiments of many of the most enlightened patrons of liberty in this and other countries, but sanctified by the militia law of several free states, both in Europe and America, particularly Switzerland and the state of New York, where (if I am not mistaken) the militia of the latter, when called forth into continental service, are subjected to the same rules of discipline, with the troops of the United States; the character and conduct of that militia prove the policy of this principle. My ambition is to deserve the good opinion of the militia of these states, not only because I respect their character and their exertions, but because their confidence in me may (as I flatter myself it has hitherto been) prove beneficial to the general cause of America: but having no local politics to bias my voice or my conduct, I leave it to
 others

others to wiggle themselves into a temporary popularity, by assassinating the reputation of innocent persons, and endeavouring to render odious a principle, the maintenance of which is essential to the good discipline of the militia, and consequently to the safety of these states. I flatter myself the time is not far off, when, by the glorious establishment of our independence, I shall again return into the mass of citizens: 'tis a period I look forward to with anxiety; I shall then cheerfully submit as a citizen, to be governed by the same principle of subordination, which has been tortured into a wanton exertion of arbitrary power.

This insinuation comes, in my opinion, with an ill grace from the state of Pennsylvania, in whose more immediate defence I sacrificed my feelings as a soldier, when I conceived them incompatible with the duties of a citizen, and the welfare of that state.

By a resolution of congress, I found myself superseded (in consequence of a new mode of appointment of general officers) by several who were my juniors in service; those who know the feelings of an officer, (whose utmost ambition is the good opinion of his country) must judge what my sensations were at this apparent mark of neglect. I repaired to the city of Philadelphia in the month of May, 1777, in order either to attain a restoration of my rank, or a permission to resign my commission; during this interval, the van of General Howe's army advanced, by a rapid march, to Somerset court house, with a view (as was then generally supposed) to penetrate to the city of Philadelphia.

Notwithstanding I had been superseded, and my feelings as an officer wounded, yet, on finding the state was in imminent danger from the designs of the enemy, I sacrificed those

those feelings, and with alacrity put myself at the head of the militia, who were collected to oppose the enemy, determined to exert myself for the benefit of the public, although I conceived myself injured by their representatives. How far the good countenance of the militia under my command operated, in deterring General Howe from marching to the city of Philadelphia, I will not pretend to say; certain it is, he altered his route.

What returns I have met with from the state of Pennsylvania, I leave to themselves to judge, in the cool hour of reflection, which (notwithstanding the phrenzy of party, and the pains so industriously taken to support a clamour against me) must sooner or later arise.

I will conclude this subject, by reading a letter from Mr. Matlack, received subsequent to the letters which have been already read, which I consider as an insult and indignity. The letter will speak for itself; the spirit and tendency of it are very obvious.

Philadelphia, March 17th, 1779.

SIR,

It appears to me proper to communicate to you, that I shall, on Saturday evening next, lay before a respectable number of citizens, the several letters which have passed between you and myself, relating to the orders delivered by one of your aids to my son. My intention is, to consult with them on the measures necessary to prevent effectually, a like insult being offered *by you*, to any other citizen of this state. I say, *by you*, because it is intimated in your letter, of the 12th of October, that the matter lies between your major and my son; whereas the order being *your order*, and my

my fon *several years under age*, I conceive it to lie between
yourself and me.

And am, fir,

Your very humble servant,

T. MATLACK.

To Major General Arnold.

The fourth charge is evidently triable only in a court of common law, I should not therefore notice it at present, did it not add to the torrent of asperſion which has been poured forth againſt me, and which, if not checked, may leave upon the minds of fellow ſoldiers and citizens, diſagreeable impreſſions, even though I ſhould be acquitted of the charges which are cognizable by the law martial. I therefore beg leave to lay before the court, a certified copy of an indictment preferred againſt me for this ſuppoſed offence, in behalf of the commonwealth of Pennſylvania, with the jurors return.

I, Edward Burd, prothonotary of the Supreme court, and of the courts of Oyer and Terminer, and general gaol delivery, in and of the common wealch of Pennſylvania, do hereby certify, That at a court of Oyer and Terminer, and general gaol delivery, held at Philadelphia, for the city and county of Philadelphia, the fifth day of April, in the year of our Lord one thouſand ſeven hundred and ſeventy-nine, before the honourable Thomas M’Kean,⁽²¹⁾ William Auguſtus Atlee,⁽²²⁾ and John Evans, Eſquires, juſtices of the ſaid ſeveral courts, a bill was preferred to the grand inqueſt (who were then and there duly ſummoned, impannelled, returned, ſworn, and affirmed, to inquire for the ſaid commonwealth, and for the ſaid city and county of Philadelphia) in the following words and figures, to wit :

Philadelphia,

Philadelphia, Oyer and Terminer, April sessions, 1779.

Philadelphia county, ff:

The jurors for the commonwealth of Pennsylvania, upon their oaths and affirmations, do present, That Benedict Arnold, Esq., late of the city of Philadelphia, in the county aforesaid, on the first day of December, in the year of our Lord one thousand seven hundred and seventy-eight, with force and arms, at the city aforesaid, in the county aforesaid, did unjustly and unlawfully maintain and uphold a certain suit, which was then depending in the court of admiralty of this state, before the honourable George Rofs,⁽²³⁾ Esq., judge of the same court, and in which Captain Thomas Houston, commander of the brigantine of war, the *Convention*, in behalf of himself, and all other persons interested or concerned in the said brigantine, was libellant against the sloop or vessel called the *Active*, her tackle, apparel, furniture, and cargo, and Gideon Olmsted, Artemas White, Aquila Rumsdale, and David Clark, for themselves, and also Captain James Josiah, commander of the private sloop of war, the *Le Gerard*, in behalf of himself, and all others concerned in the said private sloop of war, or interested therein, were severally claimants, on the behalf of them, the said Gideon Olmsted, Artemas White, Aquila Rumsdale, and David Clark, against the said Thomas Houston and James Josiah, to the manifest hindrance and disturbance of justice, in contempt of this commonwealth, to the great damage of the said Thomas Houston and James Josiah, and against the peace and dignity of the commonwealth of Pennsylvania.

JONA. D. SERJEANT,⁽²⁴⁾ *Att. Gen.*

Which said bill was then and there returned by the said grand inquest *ignoramus*; whereupon all and singular the premises

premises being seen, and by the said justices here fully understood, it is ordered by the said justices, that the said Benedict Arnold, Esq., be discharged; and he was discharged accordingly.

In testimony whereof, I have hereto set my hand, and the seal of the said supreme court, the twenty-
L. s. second day of November, in the year of our Lord one thousand seven hundred and seventy-nine.

EDW. BURD, *Pro. Sup. Court.*

Notwithstanding all the influence of the ruling powers of Pennsylvania, which must be well known by several of this honourable court; the unexampled method adopted by the council to prejudice the minds of the citizens against me, previous to a trial, and the daily calumnies invented and industriously circulated to prevent the popular heat from subsiding; the impartiality and good sense of a body of freemen of the city of Philadelphia, were impregnable to all the arts made use of to poison the fountain of justice. And here I cannot but congratulate my countrymen upon the glorious effects of the exertions we have made, to establish the liberties of ourselves, and posterity, upon the firm basis of equal laws. Had it not been for the grand bulwark against the tyranny of rulers, the trial by peers, it is easy to foresee, from the spirit of those who have been my accusers what must have been my fate. When I reflect on this circumstance, I contemplate, with a grateful pleasure, the scars I have received in defence of a system of government, the excellence of which, though frequently before the subject of my speculation, is now brought home to my *feelings*.

It is difficult to account for the extraordinary mode pursued by the state of Pennsylvania, to damn my reputation,
and

and for the asperity with which I was persecuted, on any other principle, than one, by which states, as well as individuals, are too often tempted to commit the most flagrant acts of injustice, *I mean interest*. The sloop *Active*,⁽²⁵⁾ which was the object of the suit, which I was accused of unlawfully maintaining, was taken by part of the crew of the vessel, who were Americans, who rose upon the rest, and after having confined the captain and others, were bringing her into port. In this situation she was boarded by a vessel belonging to the state of Pennsylvania, and brought in, and afterwards libelled as a prize taken by themselves. The original captors, who were (some of them) born in Connecticut, my native country, with whose connections I was acquainted, applied to me for my assistance in obtaining them *justice*. I assisted them both with my advice, my time, and my purse; and though three fourths of the vessel and cargo were, by the lower court of admiralty for the state of Pennsylvania,^f adjudged to the state captors, this sentence was, by an unanimous opinion of a court of appeals, reversed and adjudged to those whom I patronized, as appears by their decree, which I beg leave to read, with their report to congress, and the resolutions of congress thereupon.

THOMAS HOUSTON, Esq., &c., *app.*

adv.

GIDEON OL MSTED, &c., *appts.*

*In the Court of Commissioners of Appeal for the United States
of America.*

At a court held at the state house, in the city of Philadelphia, on the twelfth day of December, in the year of our
Lord

Lord one thousand seven hundred and seventy-eight, before the Honourable William Henry Drayton, William Ellery, John Henry the younger, and Oliver Ellsworth, Esqs.,⁽²⁶⁾ commissioners appointed by the honourable congress, to hear, try, and determine all appeals from the courts of Admiralty of the several American states to congress, came the parties, as well as appellants as appellees, in the above cause, by their respective advocates; and after solemn argument, and full hearing of the said parties, by their said advocates, the said court took time to consider thereof, and held the same under advisement, until the fifteenth day of December aforesaid.

At which day, the said court being again met, proceeded to the publication of their definitive sentence or decree, upon the said appeal; which being read and filed, is in the words following, to wit:

THOMAS HOUSTON, Esq., &c., <i>App.</i> <i>adv.</i>	}
GIDEON OLMSTED, &c., <i>Appts. and</i> <i>Claimants of the sloop Active, her</i> <i>cargo, &c.</i>	}

Appeal from the Court of Admiralty of the state of Pennsylvania.

We the commissioners appointed by the honourable congress of the United States of America, to hear, try, and determine all appeals from the courts of admiralty of the several states aforesaid, to congress, having heard and fully considered, as well all and singular the matters and things set forth and contained in the record or minute of the proceedings of the court aforesaid, in the above cause, as the

arguments of the advocates of the respective parties in the above appeal, do thereupon adjudge and decree, That the judgment or sentence of the court of admiralty aforesaid, be in all its parts revoked, reversed, annulled. And we do further decree and adjudge, That the sloop or vessel called the *Active*, with the tackle, apparel and furniture, and the goods, wares and merchandizes laden and found on board her at the time of her capture, as mentioned in the claim of Gideon Olmsted, Artemas White, Aquila Rumsdale and David Clark, the appellants, be condemned as lawful prize to and for the use and behoof of them, the said appellants; and that process issue out of the court of admiralty aforesaid, commanding the marshal of the said court to sell the said sloop *Active*, and her cargo, at public vendue, for the highest price that can be gotten for the same; and after deducting the costs and charges of the trial in the said court of admiralty, and the expences attending the sale of the said sloop, &c., that he pay the residue of the monies arising from the said sale unto the appellants aforesaid, their agent or attorney; and we do further adjudge and decree, that the appellees pay unto the appellants in this cause, the sum of two hundred and eighty dollars for their costs and charges by them expended, in sustaining and supporting their said appeal.

December 15, 1778.

WM. H. DRAYTON,
JOHN HENRY,
WILLIAM ELLERY,
O. ELLSWORTH.

(Copy.)

Examined with the original,

GEO. BOND, *Dep. Sec. of Congress.*

IN CONGRESS.

March 6, 1779.

“ The committee to whom was referred the report of the committee on appeals of January^d 19th, 1779, having, in pursuance of the instructions to them given, examined into the causes of the refusal of the judge of the court of admiralty for the state of Pennsylvania, to carry into execution the decree of the court of committee of appeals, report,

That on a libel in the court of admiralty for the state of Pennsylvania, in the case of the sloop *Active*, the jury found a verdict in the following words, viz : “ one fourth of the net proceeds of the sloop *Active* and her cargo to the first claimants, three fourths of the net proceeds of the said sloop and her cargo to the libellant and the second claimant, as per agreement between them ; ” which verdict was confirmed by the judge of the court, and sentence passed thereon. From this sentence or judgment and verdict, an appeal was lodged with the secretary of congress and referred to the committee appointed by congress, “ to hear and determine finally upon all appeals brought to congress, ” from the courts of admiralty of the several states.

That the^d said committee, after solemn argument and full hearing of the parties by their advocates, and taking time to consider thereof, proceeded to the publication of their definitive sentence or decree, thereby reversing the sentence of the court of admiralty, making a new decree, and ordering process to issue out of the court of admiralty for the state of Pennsylvania, to carry this their decree into execution :

That the judge of the court of admiralty refused to carry into execution the decree of the said committee on appeals, and has assigned as the reason of his refusal, that an act of
the

the legislature of the said state, had declared that the finding of a jury shall establish the facts in all trials of the courts of admiralty, without re-examination or appeal, and that an appeal is permitted only from the decree of the judge :

That having examined the said act, which is intitled “an act for establishing a court of admiralty,” passed at a session which commenced the 4th of August, 1778, the committee find the following words, viz : “the finding of a jury shall establish the facts, without re-examination or appeal,” and in the seventh section of the same act the following words, viz : “in all cases of captures an appeal from the decree of the judge of admiralty of this state, shall be allowed to the continental congress or such person or persons as they may from time to time appoint for hearing and trying appeals.”

That although congress, by their resolution of November 25th, 1775, recommended it to the several legislatures to erect courts for the purposes of determining concerning captures, and to provide that all trials in such cases be had by a jury, yet it is provided that in all cases an appeal shall be allowed to congress or to such person or persons as they shall appoint for the trial of appeals :” whereupon

Resolved, That congress, or such person or persons as they appoint to hear and determine appeals from the courts of admiralty, have necessarily the power to examine as well into decisions on facts as decisions on the law, and to decree finally thereon, and that no finding of a jury in any court of admiralty or court for determining the legality of captures on the high seas, can or ought to destroy the right of appeals and the re-examination of the facts reserved to congress :

That no act of any one state can or ought to destroy the right of appeals to congress in the sense above declared :

That

That congress is by these United States vested with the supreme sovereign power of war and peace :

That the power of executing the law of nations is essential to the sovereign supreme power of war and peace :

That the legality of all captures on the high seas must be determined by the law of nations :

That the authority ultimately and finally to decide on all matters and questions touching the law of nations, does reside, and is vested in the supreme sovereign power of war and peace :

That a controul by appeal is necessary, in order to compel a just and uniform execution of the law of nations :

That the said controul must extend as well over the decisions of juries as judges in courts for determining the legality of captures on the sea ; otherwise the juries would be possessed of the ultimate supreme power of executing the law of nations in all cases of captures, and might at any time exercise the same in such manner as to prevent a possibility of being controuled ; a construction which involves many inconveniencies and absurdities, destroys an essential part of the power of war and peace entrusted to congress, and would disable the congress of the United States from giving satisfaction to foreign nations complaining of a violation of neutralities, of treaties or other breaches of the law of nations, and would enable a jury in any one state to involve the United States in hostilities ; a construction which for these and many other reasons is inadmissible :

That this power of controuling by appeal the several admiralty jurisdictions of the states has hitherto been exercised by congress, by the medium of a committee of their own members.

Resolved, That the committee before whom was determined

mined the appeal from the court of admiralty for the state of Pennsylvania, in the case of the sloop *Ætive*, was duly constituted and authorized to determine the same :

On passing this resolution, the yeas and nays being required by Mr. Searle,

New-Hampshire,	Mr. Frost,	ay,	} ay.
Massachusetts-Bay,	Mr. S. Adams,	ay,	
	Mr. Lovell,	ay,	
	Mr. Holten,	ay,	
Rhode-Island,	Mr. Collins,	ay,	} ay.
Connecticut,	Mr. Dyer,	ay,	
	Mr. Root,	ay,	
	New-York,	Mr. Jay,	ay,
Mr. Floyd,		ay,	
New-Jersey, Pennsylvania,		Mr. Witherspoon,	no,
	Mr. Armstrong,	no,	
	Mr. Shippen,	no,	
	Mr. Atlee,	no,	
	Mr. Searle,	no,	
	Mr. M'Clene,	no,	
Maryland,	Mr. Plater,	ay,	} ay.
	Mr. Carmichael,	ay,	
	Mr. Henry,	ay,	
Virginia,	Mr. T. Adams,	ay,	} ay.
	Mr. M. Smith,	ay,	
	Mr. R. H. Lee,	ay,	
North-Carolina,	Mr. Penn,	ay,	} ay.
	Mr. Hill,	ay,	
	Mr. Burke,	ay,	
South-Carolina,	Mr. Laurens,	ay,	} ay.
	Mr. Drayton,	ay,	
Georgia,	Mr. Langworthy,	ay,	} ay.

So it was resolved in the affirmative.

Resolved,

Resolved, That the said committee had competent jurisdiction to make thereon a final decree, and therefore their decree ought to be carried into execution :

On this the yeas and nays being required by Mr. Searle,		
New-Hampshire,	Mr. Frost,	ay, } ay.
Maffachusetts-Bay,	Mr. S. Adams,	ay, }
	Mr. Lovell,	ay, } ay.
	Mr. Holten,	ay, }
Rhode-Ifland,	Mr. Collins,	ay, } ay.
Connecticut,	Mr. Dyer,	ay, }
	Mr. Root,	ay, } ay.
New-York,	Mr. Jay,	ay, }
	Mr. Floyd,	ay, } ay.
New-Jerfey,	Mr. Witherfpoon,	ay, } *
	Pennfylvania,	Mr. Armftrong,
Mr. Atlee,		no, }
Mr. Shippen,		no, } no.
Mr. Searle,		no, }
Mr. M'Clene,		no, }
Maryland,	Mr. Plater,	ay, }
	Mr. Paca,	ay, }
	Mr. Carmichael,	ay, } ay.
Virginia,	Mr. Henry,	ay, }
	Mr. T. Adams,	ay, }
	Mr. Smith,	ay, } ay.
North-Carolina,	Mr. R. H. Lee,	ay, }
	Mr. Penn,	ay, }
	Mr. Hill,	ay, } ay.
South-Carolina,	Mr. Burke,	ay, }
	Mr. Laurens,	ay, }
	Mr. Drayton,	ay, } ay.
Georgia,	Mr. Langworthy,	ay, } ay.

So it was refolved in the affirmative.

Resolved,

Resolved, That the general assembly of the state of Pennsylvania be requested to appoint a committee to confer with a committee of congress on the subject of the proceedings relative to the sloop *Active*, and the objections made to the execution of the decree of the committee on appeals, to the end that proper measures may be adopted for removing the said obstacles; and that a committee of three be appointed to hold the said conference with the committee of the general assembly of Pennsylvania;

The members chosen, Mr. Paca, Mr. Burke and Mr. R. H. Lee.”

This, gentlemen, is my cardinal guilt; hence proceeds the vengeance of an interested government against me; hence the pain and anxiety I have suffered, in seeing the fair fabric of reputation, which I have been with so much danger and toil raising since the present war, undermined by those, whose posterity (as well as themselves) will feel the blessed effects of my efforts, in conjunction with you and others, in rescuing them from a tyranny of the most cruel and debasing nature.

With respect to the fifth charge, of appropriating the waggons of the state of Pennsylvania, when called forth upon a special emergency, last autumn, to the transportation of private property, &c., &c.

The evidence relative to that transaction, before the court, will, I doubt not, justify my conduct in their opinion. It has been clearly proved by the testimony of Colonel Mitchell and Major Franks, that the waggons were supplied by the deputy quarter master general upon a private request, and not considered as in the public service, when employed. Suppose application had been made to me, for waggons,
during

during my command in the city of Philadelphia, for removing property belonging to private persons, which was in danger of falling into the hands of the enemy, and I found the same could be done without injury to the public, should I be justified in refusing the public assistance? Certainly not. Does then the criminality consist in removing the property, because I was interested in it? Had the supplies for the continental army been obstructed by this transaction, or had I endeavoured to make it a public charge, my conduct would certainly have been blame worthy; but as it evidently appears, that neither the one or the other was the case, I flatter myself, that my conduct, instead of being condemned by this honourable court, will be approved, and that an honourable acquittal will follow from the facts I have proved.

What shall I say of the conduct of the president and council of Pennsylvania, respecting the waggons? They first charge me with employing public waggons to remove private property, insinuating, that the waggon master was refused payment for the hire of his waggons, and that I intended to defraud the public. It would have been but candid, had they informed the public, that Jesse Jordan the waggon master had not been refused payment for the hire of his waggons, but that by their influence and advice, he had been prevented calling on me for his pay, that they might have some pretence for instituting an action and this charge against me.

In the next instance, they wrote, or caused to be wrote, a letter to Jesse Jordan, directing him to make out the account of the hire of his waggons, assuring him, that if he charged eighty pounds for the hire of each waggon, (more than double the first account which he had presented to me)

they did not doubt of his recovering the whole sum, and directed him to send his account to the attorney general, who had orders to commence an action against me for the same, which he accordingly did; and there is now an action against me, depending in one of the courts of Pennsylvania, for upwards of eleven hundred pounds, for the hire of those waggons.

Is it not very extraordinary, that I should be accused and tried before this honourable court, for employing public waggons, and at the same time, and by the same persons, be prosecuted in a civil court of Pennsylvania, for employing the same waggons as private property.

As to the sixth charge, purporting, that by my recommendatory letter to General Maxwell, to grant a pass to Miss Levy to go to New-York, I had violated the resolve of congress, and usurped the authority of the state of Pennsylvania. To attempt a serious refutation, would be as ridiculous as the charge itself. Let the letter wrote on this occasion speak for itself. I kept no copy of it, but well remember the purport, which was nearly as follows :

SIR,

The bearer, Miss Levy, is a young woman of a good character, who has an aged parent that is blind, depending on her for support; she has money due to her from people in New-York, and wishes for a permission to go there for the purpose of collecting it, for the relief and support of her mother, who will be greatly distressed without it. I believe she will not make an ill use of a pass, if granted to her.

I am sir,

Your humble servant,

M. CLARKSON.(27)

General Maxwell.

As to the seventh charge, of an indecent and disrespectful behaviour to the council of Pennsylvania.

True it is, I refused to obey an arbitrary mandate, (to render to them an account of my conduct) calculated to criminate myself. They complain, that by my refusal their *dignity is wounded*. Had I obeyed, soldiers and citizens might justly have said, that I had betrayed their *rights*, and *wounded their dignity*. *The very demand was an insult to common sense*. I beg leave to observe, that no one has a greater respect than myself for the civil authority, and no one is more convinced of the necessity of supporting it. But when public bodies of men shew themselves actuated by the passions of anger, or envy, and apply their effects to sap the character of an individual, and to render his situation miserable, they must not think it extraordinary, if they are not treated with all the deference which they may think their due.

It is the dignity with which an office is executed, much more than the name, that can ever secure respect and obedience from a free people, and true dignity consists in exercising power with wisdom, justice and moderation. Had I experienced this, and had any unguarded expressions escaped my pen in my letters to the president and council of Pennsylvania, I would cheerfully, in a cooler hour of reflection, have made an acknowledgment; but they have thought proper to take vengeance for themselves: I shall therefore leave it to the impartial public of America to judge betwixt us.

The anathema of the supreme executive council, closes with observing, "That the discouragement and neglect manifested by General Arnold to civil, military and other characters, who have adhered to the cause of their country,
with

with an entire different conduct to those of another character, are too notorious to need proof or illustration," &c.

I am not sensible, Mr. President, of having neglected any gentlemen, either in the civil or military line, who have adhered to the cause of their country, and who have put it into my power to take notice of them; with respect to gentlemen in the civil line and army, I can appeal to the candour of congress and to the army, as scarcely a day passed but many of both were entertained by me; they are the best judges of my company and conduct.

With respect to attention to those of an opposite character, I have paid none but such, as in my situation, was justifiable on the principles of common humanity and politeness. The president and council of Pennsylvania will pardon me, if I cannot divest myself of humanity, merely out of complaisance to them.

It is enough for me, Mr. President, to contend with men in the field; I have not yet learned to carry on a warfare against *women*, or to consider every man as disaffected to our glorious cause, who, from an opposition in sentiment to those in power in the state of Pennsylvania, may, by the *clamour of party*, be *stiled a tory*: it is well known, that this odious appellation has, in that state been applied by some, indiscriminately, to several of illustrious character, both in the civil and military line.

On this occasion I think I may be allowed to say, without vanity, that my conduct, from the earliest period of the war to the present time, has been steady and uniform. I have ever obeyed the calls of my country, and stepped forth in her defence in every hour of danger, when many were deserting her cause, which appeared desperate: I have often bled in it; the marks that I bear, are sufficient evidence of my conduct.

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The impartial public will judge of my services, and whether the returns that I have met with are not tinged with the basest ingratitude. Conscious of my own innocence, and the unworthy methods taken to injure me, I can with boldness say to my persecutors in general, and to the *chief* of them in particular, that in the hour of *danger*, when the affairs of America wore a *gloomy aspect*, when our illustrious general was retreating through New-Jersey, with a handful of men, I did not propose to my associates, basely to quit the general, and sacrifice the cause of my country to my personal safety, by going over to the enemy, and making my peace. I can say I never basked in the sunshine of my general's favour, and courted him to his face, when I was at the same time treating him with the greatest disrespect, and villifying his character when absent. This is more than a ruling member of the council of the state of Pennsylvania can say, "*as it is alleged and believed.*"(28)

Before I conclude, I beg leave to read before this honourable court a report of a committee of enquiry of congress, on the charges published against me by the council of Pennsylvania, with several letters I did myself the honour to write to congress, and a letter from their committee in answer: I do not presume to offer these as evidence, but as they shew the anxiety I had to have my conduct investigated, and the reluctance of my accusers to bring matters to an issue, I think it incumbent on me as an officer, to lay them before you.

Report of the committee of congress on the charges exhibited against General Arnold by the president and council of Pennsylvania.

The first, second, third and fifth charges, are offences,
triable

triable only in a court martial ; that the fourth charge is an offence only of a civil nature, and triable only in a court of common law ; that the sixth, seventh, and eighth charges are offences, not triable by a court martial, or common law court, or subject to any other punishment than the displeasure of congress and the consequences of it ; that the committee are furnished with evidence, by the supreme executive council on the fifth and seventh charges, to which they beg leave to refer ; that the committee of the said executive council, though repeatedly applied to, declined to give any evidence on the rest of the charges, after fruitless application for three weeks, during which time several letters passed between the said executive council and committee, in which letters, the supreme executive council even threaten the committee, and charge them with partiality.

Resolved, That as to the first and second charges, no evidence appears tending to prove the same ; that the said charges are fully explained, and the appearances they carry of criminalty, fully obviated by clear, unquestionable evidence. The third charge, admitted by General Arnold in one instance, to be transmitted to the commander in chief. The fourth charge, there appears no evidence to prove the same, and that it is triable only in a common law court. The fifth charge be transmitted to the commander in chief.

Resolved, That the recommendatory letter in the sixth charge, is not within the spirit of the resolve of congress, or an usurpation of authority.

Resolved, That the letter in the seventh charge, though not in terms of perfect civility, yet it is not expressed in terms of indignity ; and that after the conduct of the said supreme executive council toward the said General Arnold, and the unexampled measures they took to obtain satisfaction,

tion, totally and absolutely preclude all right to concessions or acknowledgment.

Resolved, On the eighth charge, that there is no evidence to prove the fame.

MR. PRESIDENT REED'S *letter to* MR. W. PACA.

IN COUNCIL.

Philadelphia, 29 January, 1779.

GENTLEMEN,

After the conference between your honourable committee and this board on Wednesday last, the propriety of our farther appearing to congress on that part of the subject, which related to the employ of our public waggons, was considered; and it now becomes my duty to acquaint you, that this council preferring the public good to all other considerations, and more especially to those in which a sense of indignity offered us, may be supposed to mingle, have concluded to give you all the information that is now in our power. In addition therefore to the papers enclosed, I would mention, that if Mr. Mitchell's state of that business should appear to be defective, one Jesse Jordan, late a waggon master in the quarter master's department, can give testimony in the matter. We had sent to the quarter master to order him up, before Mr. Mitchell's state was given us, but we find he has quitted the service, and we supposing that state of the matter to afford sufficient ground of complaint, have taken no measures since to bring him up for examination.

But while we thus act upon motives superior to the gratification of our own feelings, we think we should be wanting in public duty and spirit, if we concealed; and while we are deliberating upon the measures to which we are

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are competent, for the vindication of our own honour, we must freely, 'though respectfully, declare, that, if in the execution of public duty and the resolves of congress, your officers may frustrate our good intentions, and affront us without feeling any marks of your displeasure, it will greatly discourage our prosecuting any enquiries into public abuses, and executing your resolves farther than the special exigencies and conveniencies of our state should require : for we cannot but feel great reluctance to commit the authority and honour of the state, and our own personal feelings, in disputes with persons who, in many cases, may, by that means, be elevated into undeserved consequence.

I am, gentlemen, with great respect,

Your most obedient humble servant,

(Signed.)

JOS. REED, *President.*

Philadelphia, March 17, 1779.

SIR,

I did myself the honour of writing to you on the 12th ult. to which ask leave to refer. I am gratefully sensible of the attention, which congress paid to my request, in appointing a committee of their honourable body to enquire into the charges published against me by the president and council of Pennsylvania ; and having been informed, that the committee have finished their enquiry, and delivered in their report, I pray you, sir, to recommend to congress, to examine, and decide thereon as soon as possible. I am sensible of the multiplicity of business before congress, yet I flatter myself, that they will consider the cruel situation in which I am placed by the persecution of my enemies, and relieve me by a speedy decision.

As an individual, I trust I shall ever have spirit to be the
guardian

guardian of my own honour ; but as the servant of congress, when attacked by a public body, I consider myself bound to make my appeal to that honourable body, in whose service I have the honour to be ; and whilst my conduct and the charges against me are under their consideration, I think it my duty to wait the issue, without noticing the many abusive misrepresentations and calumnies, which are daily circulated by a set of wretches, beneath the notice of a gentleman and man of honour ; yet permit me to say, that these calumniators, employed and supported by persons in power and reputable stations, whilst my cause remains undetermined before congress, consider themselves secure, and industriously spread their insinuations and false assertions through these United States, to poison the minds of my virtuous countrymen and fellow citizens, and to prejudice them against a man whose life has ever been devoted to their service, and who looks on their good opinion and esteem, as the greatest reward and honour he can receive. Thus circumstanced, I cannot be charged with undue impatience for soliciting an immediate decision on the charges brought against me ; and I flatter myself, that every member of that honourable body must have some idea of what I have suffered on this occasion, and that they will relieve me from a situation, the cruelty of which is beyond my power to express.

I have the honour to be

With great respect and esteem, fir,

Your most obedient humble servant,

B. ARNOLD.

His Excellency John Jay, Esq.

Philadelphia, April 14th, 1779.

SIR,

I find by a resolution of congress of the 3d instant, that they have directed His Excellency General Washington to call a court martial on the 1st, 2d, 3d and 5th charges contained in the resolves of the executive council of the state of Pennsylvania, of the 3d of February, the said charges being only cognizable by a court martial.

I cannot but testify my surprize, that a court martial should be ordered to try me for offences, some of which the committee of congress in their report, say, "there appears no evidence tending to prove the same, that the said charges are fully explained, and the appearances they carry of criminality fully obviated by clear unquestionable evidence." If congress have been induced to take this measure for the public good, and to avoid a breach with this state, however hard my case may be, and however I am injured as an individual, I will suffer with pleasure, until a court martial can have an opportunity of doing me justice by acquitting me of these charges a second time.

As congress have not decided on the 6th, 7th and 8th charges, though their committee have acquitted me, I must now beg the favour of their decision on those charges: I ask it as a piece of justice due to a faithful and honest servant, and make no doubt of their immediately complying with my request.

I have the honour to be, sir,

Your very humble servant,

B. ARNOLD.

His Excellency John Jay, Esq.

Philadelphia,

Philadelphia, April 26, 1779.

SIR,

I did myself the honour of writing to you on the 8th and 12th of February, and again on the 14th instant, respecting the most cruel and unjust attempt made by the president and council of this state, to injure my character, to which letters I beg leave to refer. In consequence of the two former, congress were pleased to appoint a committee to investigate the charges against me, to the end, that I might be, on their report, either acquitted or tried; and though the committee, after three weeks fruitless application to the president and council of this state, were not able to obtain any evidence in support of the two first charges, and in their report to congress, say, "That there is no evidence tending to prove the same; that the said charges are fully explained, and the appearances they carry of criminality, fully obviated, by clear, unquestionable evidence."

Yet, I find, by a resolution of congress, of the 3d instant, they have ordered a court martial to try me for those charges, of which their committee have fully exculpated me, and have refused to decide on the report of the committee on the three last charges, which are not cognizable either in a civil law court, or court martial; and of which I still suffer under the imputation, although this committee have fully acquitted me. I must once more beg congress will do me the justice to decide on those charges. I ask for no favour, but justice, and my right; and I flatter myself, when congress consider my past services and suffering in the cause of my country, they will no longer withhold the justice from me I am entitled to, however disagreeable it may be to my cruel and implacable enemies, who, without cause

cause, have avowed their intentions to ruin me, and who, if justice is not denied me, will be held up to the public in their true colours.

Upon application to the secretary of congress, for copies of all the papers relative to the charges against me, I have been informed, that I cannot have the report of the committee of congress, or the letters which passed between them and the supreme executive council, without an order of congress, which I now request, as those papers are absolutely necessary to lay before the court martial, that the affair may appear in a proper point of light. A court martial can never, I presume, suppose congress would have ordered me tried for charges, of which their committee had acquitted me. If therefore the report of the committee, or any other papers, tending to elucidate the affair, is withheld from the court martial, it will, doubtless, operate on their minds to my disadvantage, and a fair trial can by no means be obtained. As the committee of congress have acted as a court of enquiry, I have an undoubted right (agreeable to the customs of all such courts) to the whole proceedings, and every paper relative to the matter. This, I presume, congress will not deny me. I therefore request, that they will be pleased to order copies of those letters, report, &c., delivered me as soon as possible, as the court martial is ordered to sit for my trial on the first of May.

I have the honour to be very respectfully, sir,
Your most obedient servant,

B. ARNOLD.

His Excellency J. Jay, Esq., *President of Congress.*

Philadelphia,

Philadelphia, May 14th, 1779.

DEAR SIR,

As you are chairman of the committee on my letter to congress, respecting the report of the committee and letters of the president and council of this state, I must request the favour of your endeavouring to have your report made to congress as soon as possible, and of knowing when that will probably be, as my trial is positively fixed to the first day of June. If the report is not made in a few days, I shall be deprived of the benefit of those papers, which I conceive to be my right, and absolutely necessary to obtain justice of the court martial.

I am, with great esteem, dear sir,
Your most obedient servant,
B. ARNOLD.

Honourable William Paca, Esq.(29)

DEAR SIR,

As congress cannot possibly comply with your request, the committee can make no report, that will be of any service to you. You cannot have a copy of the report you refer to, nor of the letters which passed between the committees, because, on the late conference and accommodation between congress and the state of Pennsylvania, those proceedings are to cease, and not to be brought again into view or discussion. The whole of the evidence, which relates to the charges on which you are to be tried, is transmitted to General Washington, with the charges, and there is nothing kept back, which you could avail yourself of in your defence. As to the resolutions of the report acquitting you of particular charges, they were founded, you know, on *ex parte* hearing. The committee were obliged to finish
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the report, and as the executive council, from some difference between their committee and the committee of congress, would not produce the evidence in support of those charges, the committee took up the evidence offered on your part, and passed the resolutions of acquittal; but the executive council and congress having settled the misunderstandings between the committees, and congress not having decided on the report, and the said executive council having offered to produce the evidence before a court martial, the resolutions of the committee can have no operation whatever: when we therefore come to report on your late application, we must report, that your application cannot be complied with.

I am, sir,

Your obedient humble servant,

W. PACA.

May 15, 1779.

This report was never acted upon by congress, the council of Pennsylvania having had sufficient influence and address to quash any proceedings upon it: my reputation thus became for some time longer a sacrifice to what I charitably suppose was deemed by congress a necessary *state policy*, to which individuals, however inconveniently, must sometimes, without repining, submit.

I have now gone through all the charges exhibited against me; and have given to each such an answer as I thought it deserved. Are they all, or any of them supported by truth and evidence? or rather, does not each of them appear to this honourable court to be totally destitute of every semblance of a foundation in fact? and yet baseless as they themselves are, they were intended to support a fabric; with

with the weight of which, attempts were made to crush my reputation and fortunes: I allude to the preliminary resolution of the council, containing severe but general strictures upon my character and conduct; strictures of such a serious and important nature, that they themselves were sensible the public would not think them justified in making them, unless upon the most unquestionable grounds. Let them now be measured by their own standard. Had they unquestionable grounds to go upon? Why then, in opposition to every principle of candour and justice, in opposition to their own ideas of candour and justice, did they make and publish resolutions, containing censures of such a high import against me?

An artful appearance of tenderness, and regard for my services, by which the council are pleased to say, I *formerly* distinguished myself, is held forth in the introduction to their charges. Did they mean by this to pour balsam, or to pour poison into my wounds? I leave it to this court, and to the world to judge, whether they intended it to balance the demerits they then urged against me, by my former good conduct, as far as it would go; or whether they designed it as a sting to their charges, by persuading the public, that my demerits were so enormous, that even the greatest and most unaffected tenderness for my character, would not excuse them in continuing silent any longer.

¶ If, in the course of my defence, I have taken up the time of the court longer than they expected, they will, I trust, impute it to the nature of the accusations against me; many of which, though not immediately before you as charges, were alledged as facts, and were of such a complexion as to render it necessary to make some observations upon them; because

because they were evidently calculated to raise a prejudice against me, not only among the people at large, but in the minds of those who were to be my judges.

I have looked forward with pleasing anxiety to the present day, when, by the judgment of my fellow soldiers, I shall (I doubt not) stand honourably acquitted of all the charges brought against me, and again share with them the glory and danger of this just war.

January 22.

The court met agreeable to adjournment. The judge advocate having stated the evidence relative to the several charges exhibited against the general, the court adjourned until Wednesday eleven o'clock.

January 26.

The court met agreeable to adjournment, and having considered the several charges exhibited against General Arnold, the evidence produced on the trial, and his defence, are of opinion, with respect to the first charge, that he gave permission for a vessel to leave a port in possession of the enemy, to enter into a port in the United States, which permission, circumstanced as he was, they are clearly of opinion he had no right to give,* being a breach of article 5th, section 18th of the rules and articles of war.(30) Respecting the second charge, that although it has been fully proved, that the shops and stores were shut by General Arnold's orders on his arrival in Philadelphia, they are of opinion, that he was justifiable in the order by the resolution of congress of the 5th of June, 1778, and his excellency the commander in chief's instructions of the 18th of June, 1778: and with respect to the latter part of the same charge, the

the making considerable purchases while the shops and stores were shut, they are clearly of opinion, that it is entirely unsupported, and they do fully acquit General Arnold of it. They do acquit General Arnold of the third charge. Respecting the fourth charge, it appears to the court, that General Arnold made application to the deputy quarter master general, to supply him with waggons to remove property then in imminent danger from the enemy; that waggons were supplied him by the deputy quarter master general on this application, which had been drawn from the state of Pennsylvania for the public service; and it also appears, that General Arnold intended this application as a private request, and that he had no design of employing the waggons otherwise than at his private expence, nor of defrauding the public, nor injuring or impeding the public service; but considering the delicacy attending the high station in which the general acted, and that requests from him might operate as commands, they are of opinion, the request was imprudent and improper, and that, therefore, it ought not to have been made. The court, in consequence of their determinations respecting the first and last charges exhibited against Major General Arnold, do sentence him to receive a reprimand from his excellency the commander in chief. (31)

ROBERT HOWE,

Major General, President.

JOHN LAURANCE, *Judge Advocate.*

The court adjourned without day.

T



N O T E S .



NOTES.

Note 1, Page 2.

The full names and rank of the general officers in this court, were as follows :

Maj. Gen. Robert Howe, (N. C.) October 20, 1777.

Brig. Gen. William Smallwood, (Md.) October 23, 1776.

Henry Knox, (Mafs.) December 27, 1776.

William Woodford, (Va.) February 21, 1777.

William Irvine, (Pa.) May 12, 1779.

The names of the remaining officers, so far as we have been able to determine, were Colonels Stephen Moylan, Joseph Wood, Charles Harrison, Josiah C. Hall, — Gunby (of the 7th Maryland Battalion), and R. Butler. The Lieutenant Colonels were Josiah Harmar, Charles Simms, and — Popkins.

§ XIV, Art. 1, of the Articles of War, provided that a general court martial should not consist of less than thirteen commissioned officers, and the president could not be the commander in chief, or commandant where the offender was tried, nor be under the degree of a field officer. They were to take the same rank as they held in the army.

Note 2, Page 2.

The officers challenged were citizens of Pennsylvania, which may have been the reason of this proceeding.

General Arnold resigned his command in Philadelphia on the 18th of March, 1779, as soon as the committee in congress had reported on the charges submitted by the council of Pennsylvania.

The proceedings of the court martial had but just commenced, when a movement of the enemy in New York, gave the commander in chief reason to suspect that he intended either an advance into New Jersey, or up the North River. A council of war was called, which decided that the present emergency required that every officer should be at his post, and the proceedings of the court were therefore postponed until in the judgment of the commander in chief, the affairs of the army would justify its continuance.

General Arnold was impatient at this irritating delay, which left him through the whole summer and autumn under the imputation of the charges, and the suspicions which the public might naturally attach to them. He continued to reside in Philadelphia, where his unpopularity rendered him the object of frequent insult from an irresponsible rabble. On one occasion when abroad in the streets he was assaulted by the populace. He immediately applied to congress, asking for a guard of continental troops, but that body declined to interfere, and referred him to the executive authority of Pennsylvania for protection. In view of his open hostility to the members of the executive council, he could scarcely have received this reference otherwise as an insult, added to former injury. A second application was not successful, and the whole year wore away in inactivity, although his active mind could not be idle. He projected a withdrawal from the army, and a settlement in western New York; and some correspondence passed between him and Governor Clinton of New York, upon this subject, but nothing resulted from this scheme. He had also thoughts of engaging in the navy, but this plan also failed.

Note 3, Page 2.

The deportment of Gen. Arnold before the court, is thus described by Marbois :

“The army was encamped at a small distance. Arnold repaired to camp, and employed every artifice of intrigue and persuasion, to draw over the members of the court to his interests. He avoided at first, presenting himself before them ; but the tribunal was as resolute as it was equitable and enlightened. In spite of numberless subterfuges, he was compelled to appear, and answer on each head of accusation. Relying upon effrontery to bear him out, he steadily denied every fact which was incapable of direct proof, or vouched only by public notoriety. * * * As to the charges proved, he alleged in extenuation even the disorder of his finances ; he compared his case to that of the best citizens, impoverished like him by the revolution.”

Note 4, Page 3.

The names of officers not mentioned in a previous note, were : Brig. Gen. Wm. Maxwell of N. J., Oct. 23, 1776 ; Brig. Gen. John Stark of N. H., Oct. 5, 1777 ; Brig. Gen. Mordecai Gist, of Md., January 9, 1779. Col. Stephen Bradley, Col. Richard Hampton, Col. Philip Van Cortlandt, Col. Moses Hazen, Col. Elias Dayton, Col. — Sherburne, and Col. Oliver Spencer.

Note 5, Page 4.

Col. Moses Hazen and Lieut. Col. Frederick Weisenfeldts, were of the New York Line. The former had raised a regiment of Canadians in the expedition to Canada ; and while on this service had been personally associated with General Arnold. His rank dated from January 22, 1776.

Note

Note 6, Page 4.

These charges were published in several of the Newspapers of Pennsylvania and Maryland, in the absence of General Arnold. Mr. Clarkson, his aid de camp, and the representative of his interests, soon after published the following card, with the view of staying public opinion until the charges could be legally investigated.

“ TO THE PUBLIC :

“ The president and council of this state on the 3d instant came
 “ to certain resolutions respecting the character and conduct of
 “ General Arnold, and they have ordered them to be published,
 “ during his absence, on a journey, which it was publicly known that
 “ he was about to make, several weeks before their coming to thosè
 “ resolutions. It is I believe the first instance in the history of any
 “ free or even despotic, civilized state, of the executive power con-
 “ demning an absent man unheard, and ordering him to be prosecuted
 “ afterwards. I will not therefore make any observations at present,
 “ on this new and unprecedented conduct, but it is my duty as one
 “ of his family, and as his friend, to assure the public, that every
 “ insinuation that General Arnold left Philadelphia to avoid an ex-
 “ amination into his conduct, is totally groundless, false and injurious.
 “ That, casualties excepted, he will return in the course of two or
 “ three weeks, to this city, and in person answer any accusations that
 “ may be brought against him.

“ The reasons which induced the executive council to delay their
 “ resolutions, and the publication of their charges until General
 “ Arnold had left the town, and why they made no application to
 “ General Washington upon the subject, when his Excellency was
 “ here, will undoubtedly, at a proper time be laid before the public.
 “ In the mean time, I must pray them to suspend their judgment,
 “ and not to entertain prejudices against a man, who has so often
 “ fought and bled in their defence, and whose bravery and generosity
 “ have been so often felt and acknowledged by our enemies. It is
 “ not

“not a difficult, though a very disagreeable task, to refute every charge brought against this gentleman by the council, on what they, in justification of their proceedings *alleged and believed*. Disagreeable as it is, the publick may rest assured it will be done, not only before the court, as soon as Mr. Attorney brings forward his prosecution, but the history of the grounds and rise of the whole transaction, shall be faithfully and impartially laid before them.”

“M. CLARKSON, *Aid de Camp*.

“*Philadelphia, February 8, 1799.*”

General Arnold also published the following letter in the journals of the day, defending himself from the charges of the council.

“*Camp Raritan, Feb. 9, 1779.*”

“TO THE PUBLICK :

“Conscious of having served my country faithfully for nearly four years, without once having my publick conduct impeached, I little expected at this time, to be charged with crimes of which I believe few who know, would have suspected me. I find since I left Philadelphia, that the president and council of the state, have preferred to congress eight charges against me, for mal-administration while commanding in the state ; and that, not content in endeavouring in a cruel and unprecedented manner to injure me with congress, they have ordered copies of the charges to be printed and dispersed thro’ the several states, for the purpose of prejudicing the minds of the publick against me, while the matter is in suspense. Their conduct appears the more cruel and malicious in making the charges after I had left the city, as my intention of leaving it was publickly known for four weeks before.

“I beg leave to inform the publick, that I have requested congress to direct a court martial, to enquire into my conduct, and trust my countrymen will do me the justice to suspend their opinion in the matter until I have an opportunity of being heard, and condemned or acquitted. I hope the issue will show that, instead of being

“guilty of the abuses of power with which I am accused, the present attack upon me is as gross a prostitution of power as ever disgraced a weak and wicked administration; and manifests a spirit of persecution against a man (who has endeavoured to deserve well of his country) which would discredit the private resentments of an individual, and which ought to render any publick body, who could be influenced by it, contemptible.

“BENEDICT ARNOLD.”

“The printers who have inserted or may insert the charges of the president and council against me, are requested to insert the above address.

“B. A.”

The charges against General Arnold, were issued in connection with the following circular of the council to the governors of each of the other states :

“IN COUNCIL.

“*Philadelphia, Feby 6th 1779.*

“SIR :

“The necessity of preserving the dignity and security of civil government, and guarding the good people of these states against all abuses of power, has induced us (though with great reluctance, considering the services and sufferings of the subject of them) to come into the enclosed resolves, and also to forward them to Your Excellency to be communicated to the legislature of your state. We do assure you, sir, that every abuse of power, and disrespectful treatment of a sister state will ever be reprobated by the authority of Pennsylvania.

“We have now only to add, that on the 25th of Jan^y last, we communicated to the Hon^e Continental Congress, the 5th article of the charge in the inclosed, and on the 29th Jan^y last the 6th article, at the same time acquainting them that other transactions were under consideration which would in due time be presented,
“and

“and as General Arnold was about to leave this state immediately
 “on a pretense of private business, it was requested that he might
 “be detained to answer the charges, but he is departed from this
 “state pending the complaints, and when the proofs were ready to
 “be exhibited.

“Our reverence for the Hon^e Congress, induces us to form the
 “most favourable constructions of every part of their proceedings,
 “and in this instance to suppose, that considerations of greater mo-
 “ment to these United States than affecting a particular state, have
 “engrossed their attention, so as to occasion no other measure than
 “appointing a committee. That General Arnold might not be un-
 “acquainted with our sentiments respecting him, we furnished him
 “with the first copy.

“I am fir Respeçtfully

“Your Most Humble Serv^t

“JOSEPH REED.”

Note 7, Page 4.

Mr. Bryan emigrated from Dublin, Ireland, at an early age, engaged extensively in commercial business, but was finally unsuccessful. He was active and publick spirited, was chosen a delegate to the congress of 1765, and after the Declaration of Independence, was chosen vice president of the supreme executive council of Pennsylvania. In 1779, upon the state constitution going into effect, he was elected a member of the legislature, in which he planned and advocated a law for the gradual abolition of slavery. In 1780, he was appointed a judge of the supreme court, and held this office till his death, which occurred January 28, 1791, at the age of sixty years. His associates in the council were all prominent and influential citizens.

Note 8, Page 9.

The complaint of the council, was referred to a committee in congress, who held a conference with the joint committee of the
 general

general assembly and the council of Pennsylvania. This resulted in two sets of resolutions, one to be reported to congress, and the other to the general assembly, and council of Pennsylvania. That addressed to congress, was received on the 3d of April, and was as follows :

“ 1. *Resolved*, That unanimity and harmony between the representatives of the United States in congress assembled and each state individually has been, under God, the happy means of our past success and the only sure foundation whereon to rest our future hopes of terminating the contest with Great-Britain with honour and advantage.

“ 2. *Resolved*, That congress is highly sensible of the importance and services of the state of Pennsylvania in the present contest, and regard with sincere concern and regret every event which may tend to lessen the mutual confidence and affection which has hitherto subsisted.

“ 3. *Resolved*, That it is the full intention of congress on all occasions, to manifest the same just and equal attention to the said state and authority of Pennsylvania as to any other state in the union.

“ 4. *Resolved*, That any disrespectful and indecent behaviour of any officers, of any rank, under the appointment of congress, to the civil authority of any state in the Union, will be discountenanced and discouraged ; and that a contrary behaviour will be considered as one of the surest means to recommend any officer to the favour and notice of congress.

“ 5. *Resolved*, That the complaints against General Arnold be transmitted to his excellency the commander in chief, in order for trial ; and that the same be duly notified to the executive council ; and that they be requested to furnish the commander in chief with the evidence thereupon in their possession ; and that all farther proceedings elsewhere cease, save the collecting and transmitting any further evidence thereupon to the commander in chief.

The first four resolutions were adopted separately, and without dissent. The fifth being read, Mr. Penn moved, and it was seconded by Mr. Burke, that it be postponed until congress considered the report of the committee on the letter of the 25th of January, from the president of the supreme executive council of Pennsylvania, and the letters of the 8th and 12th of February, from Major General Arnold. The ayes and noes being required, this motion was lost.

Mr. Paca then moved, seconded by Mr. S. Adams, that in lieu of the first part of the fifth resolution as far as "possession," inclusive, the resolution given in the text should be substituted. This resolution was adopted.

Note 9, Page 11.

In collecting evidence of the use of these waggons for private use, after being called out under the pretext of publick business, President Reed addressed General Green, quarter master general, and received the following reply :

"Col. Mitchell's, 5 o'clock, January 3d, 1779.

"SIR,

"Your favor of this day, dated at three o'clock this afternoon, is
 "is to me both surprizing and unintelligible. I have given no
 "orders respecting the matter you mention. Col. Mitchell shewed
 "me a letter from General Arnold, and one he wrote the general
 "upon the subject, endeavoring to fix the principles upon which
 "the party were to be paid for their services, at the same time
 "observing, he should obey the general's order if he gave one.
 "Col. Mitchell waits upon you to give any further information you
 "may want respecting the business. If there has been any thing
 "done contrary to the honor or interest of the state, it is a piece of
 "inadvertance and altogether without design.

"I have the honor to be, with respect,

"Your most obedient and humble servant,

"NATH. GREEN.

"Directed,

"His Excellency Governor Reed, president.

Note 10, Page 19.

Mr. Thomson was born in Ireland in 1730, settled in Philadelphia as a teacher, and there formed an intimate acquaintance with Dr. Franklin, which probably led to his being selected as the secretary of the first congress. He discharged the duties of this office with great credit to himself, and usefulness to the public, during the whole period of our government, until the adoption of the constitution. He died at Lower Merion, Montgomery county, Pa., August 16, 1824, at the age of 94 years.

Note 11, Page 20.

David Solebury Franks, was one of the aids of General Arnold, through the period of his command at Philadelphia, and until his final flight to the enemy in September, 1780. From his close relations with the traitor, suspicions were naturally excited in regard to his fidelity to the colonial cause. To remove these, Majors Franks and Varick solicited and obtained a court of inquiry, which exonerated both of these officers from any connection with the plot. The traitor, himself, in a letter written on board the *Vulture*, soon after his escape, and addressed to General Washington, exonerated both his aids from any participation in his plans.

The odium which had been attached to his name at Philadelphia, however, led the council of that state, on the second of October, to order the sheriff of Philadelphia to issue warrants for the arrest of Major Franks, together with three others, "they being persons "whom there is just reason to suspect are enemies of the American "cause, and to hold an unlawful and dangerous correspondence and "intercourse with the enemy in New York."

Mr. Seabury, one of the suspected persons, was soon after released on proof of his good conduct. David Franks, a British agent, was ordered to New York, and Wm. Hamilton was allowed to depart for the Island of St. Eustatia, under bonds not to return during the war. It does not appear that Major D. S. Franks or Mr. Constable were ever arrested under the above order.

On the 20th of October, Major Franks addressed a letter to the executive council of Pennsylvania, from his quarters at Robinson's House, near West Point, in which he solicited to have forwarded to Gen. Washington, copies of any papers in their possession, tending to criminate him, and particularly that part on which a scandalous report of perjury was founded. He professed his innocence of any criminal intentions or acts, and asked the privilege of refuting them.

Note 11, Page 33.

New Windsor, upon the Hudson river, just above the Highlands, and three miles below the modern city of Newburgh, was one of the most important depots for military supplies in the later years of the revolution. At this place the principal body of the army lay encamped several months before being disbanded in 1783.

Note 12, Page 34.

Mr. Young, waggon master general, died at Philadelphia, January 29, 1779. The date of this letter is after the official copy, published by order of congress, but is manifestly intended for 1778, instead of 1779.

Note 13, Page 38.

Mr. Jordan commenced a suit against Arnold to recover the money due for team labor on his two trips to Eggharbour, but was murdered in Chester county, in October, 1779, before it came to trial, which rendered it necessary for his heirs to recommence the suit. The development of treason, which forever banished the defendant, and confiscated to the publick whatever estate there might have been found, settled the suit by leaving the claim still unpaid upon their hands. In pursuit of justice, Jordan had placed his pay rolls in the hands of the secretary of the executive council, where they were used as stated in the text.

As Col. Matlack appears prominently in the proceedings against
Arnold,

Arnold, a brief notice may be proper in this connection. He had previously served in the army, and was conspicuous for his devotion to the revolutionary cause. Although belonging to the Society of Friends in early life, he found no scruples in the way of taking arms in defence of his property and his liberty. He resided many years in Lancaster, Pa., and late in life was appointed prothonotary of one of the courts of Philadelphia. He died at Holmesborough, Pa., April 15, 1829, aged 99 years.

Note 14, Page 50.

The law under which teams were at this period called out, was passed January 3, 1778, and was entitled "An act for the regulation of waggons, carriages, and pack horses for the publick service." It created a waggon master general for the state, and a county waggon master in each county with the pay and rations of a major; deputy waggon masters were entitled to the pay and rations of a captain, when in actual service. Requisitions were made upon the county waggon masters, according to the emergencies of the case, and the payment was first made by the state, and subsequently charged upon the continental account, and paid by congress.

Note 15, Page 53.

Mr. Matlack, who took a most active part in preparing the testimony to be used against Arnold, on the 18th of February, 1779, addressed the following letter to Mr. Jordan :

" SIR,

" Major General Arnold is now in this city, and no time ought to be
 " lost in obtaining the settlement with him for the waggon hire of the
 " brigade which he sent to Eggharbor. You will, therefore, without
 " delay, send an order to Jonathan D. Sergeant, Esquire, to commence
 " suits for the recovery of it, that you may be able in good time to
 " repay the money advanced to you by the council. It will be
 " necessary

“ necessary to tend the names of the several persons, owners of the
 “ waggons, or perhaps it will be best for you to come to the city
 “ yourself if you conveniently can. There can be no doubt in my
 “ opinion, but that you will recover of the general the price paid to
 “ other waggons who were hired to private persons for like services,
 “ which I understand was about £80 for the trip to each waggon.

“ I am, &c., yours,
 “ T. M.”

“ Directed,
 “ To Mr. Jeffe Jordan, W. M.

Note 16, Page 55.

Col. William North was an aid to Baron Steuben in the Revolution, and became one of his executors and heirs after his death. He was Adjutant General of the Army for some years, and was a short time in the senate of the United States from New York. He served five years in the Legislature, and was thrice elected speaker of the assembly. Having married a daughter of the Hon. James Duane, he settled at Duaneburgh, in Schenectady county, where he spent his later years. He died at the age of eighty-three years.

Note 17, Page 55.

Gen. Charles Scott of Virginia.

Note 18, Page 55.

Col. Proctor was a native of Ireland, and settled in America before the Revolution. He engaged in the service and as colonel of Artillery, and at the battle of Brandywine, was particularly distinguished for his courage. He was by trade a carpenter. He died March 16, 1807, aged 67 years, and his remains were interred in St. Paul's church yard in Philadelphia.

Note 19, Page 77.

Mr. Boudinot was at this time a member of the continental congress, of which he was subsequently chosen president. In 1796, he was appointed director of the mint, but in 1805, resigned, and retired to private life at Burlington, N. J. On the formation of the American Bible Society, he was chosen its first president. He died, October 24, 1821, aged 81 years.

Note 20, Page 106.

In April, 1777, an expedition left New York under Governor Tryon, for the purpose of destroying a quantity of military stores which the Americans had collected at Danbury, in Connecticut. Governor Tryon was accompanied by Generals Agnew and Sir William Erskine, and had under his command about two thousand men. They landed on the 25th, and marched seven miles into the country where they rested for the night. At eight o'clock the next morning they reached Reading, and early in the afternoon arrived at Danbury. Their approach created the utmost alarm, and many of the inhabitants fled in haste to the woods or to the adjacent towns, spreading the alarm of invasion wherever they went. The enemy quartered themselves in the village; numbers became intoxicated, and their conduct became rude and boisterous. Upon their first approach, they were fired upon from a dwelling house, which greatly exasperated them, and the troops upon entering, thrust the men found in it into the cellar, and burned the house down over their heads.

The riot thus begun, continued without restraint from officers, till next morning, when they fired every house in the village, and left the scene of their fiendish carousal, before a sufficient force could be assembled to divert them from their work of destruction, or to prevent their return. Nineteen dwellings, a church, and twenty-two stores and barns were burned.

Generals Arnold and Wooster were then at New Haven, and a few

few other troops were at other points too distant to render effective service. To these, word was speedily sent, and such disposition of the forces was made, as the emergency allowed.

General Arnold joined the expedition about four miles from Reading, and at that place they were met by General Wooster. Their united force was now six hundred men, of whom one hundred were continental troops. Having stopped a short time to refresh their troops they reached Bethel, on the road to Danbury about midnight, and there learned of the destruction of Danbury. At daylight Arnold and Silliman with four hundred men proceeded to Ridgefield with the design of intercepting the enemy on their return, and Wooster with two hundred men took another route with the design of harassing their rear. In a skirmish received on this service, General Wooster received a mortal wound. At Ridgefield, Arnold, with a force now increased to five hundred, took a position across the road, threw up a breastwork and awaited the British who arrived at three o'clock in the afternoon. They were attacked, and defended the position an hour, but then gave way. They rallied, and pursued the enemy to his ships, having several sharp skirmishes on the way. Col. Huntington joined the Americans, and assisted in the pursuit.

Gen. Arnold's horse was shot under him at Ridgefield. He saved himself by drawing his pistol and shooting a soldier, who after having fired his piece at him, was rushing forward with his bayonet. The next day, a horse which he rode was shot through the neck. The Americans lost twenty killed, and from seventy to eighty wounded. The loss of stores was severely felt by the American army, especially that of sixteen hundred and ninety tents, which had been removed from Peekskill to Danbury for safety.

This barbarous transaction reflected great scandal upon the British arms, and Sir William Howe, attempted to disclaim any premeditated barbarity, and to excuse the transaction on the plea of necessity.

Note

Note 21, Page 117.

Mr. McKean was chief justice twenty-two years. He was a member of the Congress that adopted articles of independence, and one of the signers of that instrument. In 1799, he became governor of Pennsylvania, and held till 1808, when he retired to private life. He died June 24, 1817, aged 83 years.

Note 22, Page 117.

Judge Atlee was a judge of the supreme court and president of the common pleas for Lancaster and other counties. He died at his seat on the Susquehannah, Sept. 9, 1793.

Note 23, Page 118.

Mr. Ross was born at Newcastle, Del., in 1730, studied law with his brothers, and settled at Lancaster. He was in congress from 1774 to 1777, and was one of the signers of the Declaration of Independence. He was appointed a judge of the court of admiralty in Pennsylvania, in April, 1779, and died in July of that year, at the age of 49 years.

Note 24, Page 118.

Jonathan Dickinson Sergeant, was born in Princeton, N. J., in 1746, was a delegate from New Jersey in congress, from February, 1776, till July, 1777, when he was appointed attorney general of Pennsylvania.

In 1780, he resigned this office, and returned to private practice in which he attained great eminence. In 1793, upon the occurrence of the yellow fever as a fearful epidemic in Philadelphia, he was appointed to assist the sick and relieve the poor, and while discharging this pious duty he fell a victim to the disease and died in October of that year, at the age of 47.

Note

Note 25, Page 120.

The capture of this vessel occurred in 1776. They were taken from a privateer, carried to Jamaica, and thence ordered to a prison ship in New York. While on this passage, four of the crew arose on the captain and crew, and captured the vessel, as described in the text.

Gideon Olmstead died in East Hartford, Feb. 7, 1845, aged 96.

Note 26, Page 121.

These commissioners were members of congress. Mr. Drayton was from South Carolina. Mr. Ellery, from Rhode Island. Mr. Henry, from Maryland. And Mr. Ellsworth from Connecticut.

Note 27, Page 130.

Mr. Matthew Clarkson had served as an aid de camp to General Arnold for some time, and at the battle of Saratoga, received a severe wound in the neck. At Philadelphia he served as provost marshal, and shared to some degree with General Arnold, the hostility of the council. On the 25th of January, 1779, he was requested to attend before the council at noon the next day, to give such information as might be necessary, but neglected the summons. Upon this the council made complaint to congress, and a resolution of censure was moved in that body on the 24th of February, but lost by a tie vote.

They, however, decided that a letter addressed by him to the council, contained expressions indecent and improper, which congress highly disapproved of, and resolved that they would not countenance any military officer in disrespectful conduct to the civil magistracy. There is no evidence that he was implicated in the speculations or frauds of his principal.

Mr. Clarkson in after life took an active interest in benevolent enterprises, and was a vice-president of the American Bible Society. He died in New York city, April 22, 1825, aged 66 years.

Note

Note 28, Page 133.

This pungent reflection upon President Joseph Reed, the reader will find discussed, and the proofs on both sides presented, in the "Reed and Cadwalader controversy," elsewhere alluded to in this volume. Arnold refers to a conversation alledged to have been overheard between Gen. Reed and another officer, a little before the crossing of the Delaware, by Washington, in which, they regarded the Continental cause as well nigh defeated, and discussed the prospects of an early return to British allegiance, as the surest way of securing personal immunities, and pecuniary advancement. The story was emphatically denied by General Reed.

Note 29, Page 141.

Mr. Paca was one of the signers of the Declaration of Independence. From 1778 to 1780 he was chief justice of Maryland; and afterwards chief judge of the court of appeals in admiralty cases, governor of the state (in 1782 and 1786), and judge of the district court of the United States. He died while holding the last named office, in 1799, aged 59 years.

Note 30, Page 144.

The following section in the articles of war, as they then existed, is here referred to :

SECTION xviii, Art. 5. "All crimes not capital, and all disorders and neglects which officers and soldiers may be guilty of, to the prejudice of good order and discipline, though not mentioned in the above articles of war, are to be taken cognizance of by a general or regimental court martial, according to the nature and degree of the offence, and be punished at their discretion."

Although General Washington detested the vices of Arnold, he admired his impetuous bravery, which, while it often carried him into the midst of dangers, was usually crowned with success. The manner of reprimanding him, was as delicate and gentle as could be expected by the most sensitive mind, and was in the following words as reported by Marbois :

“ Our profession is the chastest of all. Even the shadow of a fault tarnishes the lustre of our finest achievements. The least inadvertance may rob us of the publick favor, so hard to be acquired. I reprimand you for having forgotten, that, in proportion as you had rendered yourself formidable to our enemies, you should have been guarded and temperate in your deportment towards your fellow citizens: exhibit anew those noble qualities which have placed you on the list of our most valued commanders. I will, myself, furnish you as far as it may be in my power, with opportunities of regaining the esteem of your country.”

General Arnold retired with traces of the keenest resentment at the decision of the court, and doubtless from that moment resolved to seek a position that should give the greatest value to his treason, and the largest opportunity for revenge upon the government that had found it necessary to oppose its laws against his arrogance and avarice.

There was still found even in the executive council which had so energetically pressed their charges upon the attention of the publick and of congress, a certain degree of respect for the military achievements of General Arnold, and on the 3d of February, 1780, their president, by their direction, addressed a letter to the commander-in-chief, requesting him, if consistent with his views of propriety, to remit that portion of the sentence of the court martial, which required him to administer publick reprimand. The following letter was accordingly written :

“ In

“ In Council, Phila., February 3, 1780.

“ SIR,

“ The proceedings of the supreme executive council of Penn-
 “ sylvania, in the case of Major Gen^l Arnold, however misrepres-
 “ ented by some & misunderstood by others, originated from the
 “ complaints of the inhabitants of the state who apprehended them-
 “ selves injured, and applied officially for redress. The ill advised
 “ refusal to have any communication with the civil authority on that
 “ subject led to other measures, which, however variously construed,
 “ will, we hope, produce this happy effect, that both civil and
 “ military power will find their true interest in preserving perfect
 “ harmony and correspondence more especially upon all inquiries
 “ tending to correct publick abuses. We do not think it proper to
 “ affect ignorance of what is the subject of publick conversation, and
 “ the sentence of the court martial leading to impose a mark of re-
 “ prehension upon General Arnold, we find his sufferings for and
 “ services to his country so deeply impressed on our minds, as to
 “ obliterate every opposing sentiment, and therefore beg leave to re-
 “ quest that congress will be pleased to dispense with that part of the
 “ sentence which imposes a publick censure, and may most affect
 “ the feelings of a brave and gallant officer.

“ In the assertion of our own rights, we would not forget the
 “ just pretensions of others to publick gratitude and attention, and as
 “ we hope Gen. Arnold’s merits and services will be remembered,
 “ when all objections to his conduct are long forgotten, we shall find
 “ a pleasure in preserving the memory of the former while we en-
 “ deavour to efface that of the latter. Influenced by these considera-
 “ tions, permit me, sir, in the name of the board at which I have
 “ the honor to preside, to entreat you to lay our request before con-
 “ gress, as well as to subscribe myself with the greatest respect and
 “ esteem

Sir, Your obed^t and very Humb^e Serv^t,

JOSEPH REED.

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