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THE

“NAVY BOARD” OF 1855

IN REVIEW BEFORE THE

NAVAL COURT OF INQUIRY,

SITTING AT WASHINGTON, 1857;

COURT COMPOSED AS FOLLOWS:

Commodore E. A. F. LAVALLETTE, *President.*

Capt. WM. J. McCLUNEY, }
“ HENRY A. ADAMS, } *Members.*

CHARLES H. WINDER, ESQ., *Judge Advocate.*

P. PHILLIPS, WM. H. ROGERS, and T. M. BLOUNT, Esqrs.,

COUNSEL FOR

WASHINGTON A. BARTLETT,

EX-LIEUT. U. S. NAVY,

(MIDSHIPMAN, 1833; PASSED MIDSHIPMAN, 1839; ACTING LIEUT., 1842;
LIEUTENANT, 1844; CIVIL MAGISTRATE OF SAN FRANCISCO, 1846, '47;*
LIEUT. COMMANDING “ARGO,” 1847; LIEUT. COMMANDING, AND
ASSISTANT COAST SURVEY, 1848-52; SPECIAL AGENT TREA-
SURY DEPARTMENT AT PARIS, FRANCE, 1852-54; FIRST
LIEUTENANT FLAG-SHIP AFRICAN SQUADRON, 1855),

A P P E L L A N T.

BEING THE

D E F E N C E,

AND ACCOMPANYING DOCUMENTS, READ BY

WM. H. ROGERS, ESQ. (OF COUNSEL), AND ADMITTED TO THE
RECORD, MAY 28TH, 1857.

NEW YORK :

W. H. TINSON, PRINTER AND STEREOTYPHER.

* Naval Occupancy of California.

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TO

COMMODORE CHARLES STEWART, U. S. N.

DEAR SIR:

To you I most respectfully dedicate this "Defence," in acknowledgment of the great and enduring debt of gratitude which is due to you for that act of civic heroism, wherein, by your individual firmness and determination, in 1846, you held in check, and for the time frustrated, the secret combinations of a "clique" to seize upon the honors of the Navy by the sacrifice of every ennobling impulse and the personal rights of comrades.

On that occasion you exhibited the same fearless spirit and exalted patriotism, as when, in 1812, you demanded of the Government, in concert with the lamented Bainbridge, that the little navy of that day should not be dismantled until it had been given an opportunity to measure prowess with its haughty and self-confident foe.

It was, no doubt, in remembrance of your unanswerable protest in 1846, that the "cabal" who so mercilessly persecuted the gallant Hull in the last years of his life, ten years later sought to lay their hands upon the naval wreath which has encircled your honored brow since 1815, when, without an "act of Congress," or any robbing of the honors of others, you reached the first place in the highest niche of our temple of naval fame, by causing two ships of the enemy to lower the cross of St. George to the stars and stripes, under which you then won your right to the title of a "flag officer."

Far better would it have been for the Navy and the country, if, in 1855, when the service was passed in review by the late irresponsible "Naval Board," it could have risen to a just view of its high duties and responsibilities, and, instead of wishing to pluck the still green leaves from your laurelled brow, or to declare that it had become seared and withered, it could have sought, by its aid and counsel, to place you officially where the

people have ever considered, and still consider you to stand, viz., on the same heroic platform as the gallant "Scott." Then we might have avoided witnessing another proof of that painful saying which comes down to us from the history of the past, that "REPUBLICS ARE PROVERBIALY UNGRATEFUL."

Whether the representatives of the people in Congress shall or shall not award to you the honors due to a lifetime of gallant and distinguished service, and honor the country and the Navy, by awarding to you an admiral's commission, the people (their masters) do and will continue to assign to you the first place in the navy list, as you are in fact the oldest in service, and the only living representative of those heroes of your rank who won for the Navy all the brilliancy still reflected by the naval epaulette, even before many of those who now aspire to your rank had smelled salt water or gunpowder.

In those days of heroic devotion, you were content to place your chances of promotion upon the seals of the commissions, and colors to be taken from the enemy; but that was before the announcement of the modern doctrine, which has declared it honorable for naval officers to seize upon an occasion to supplant a superior or brother officer senior in rank, or to take his commission from him, for the benefit of members or abettors of a secret inquisition—or to declare to the whole grade of post captains that if they hesitated in taking part in it, there were juniors of—"sharper appetites, whose interest would coincide with their duty"—ready to do it.

Whether you shall in the future be officially styled "*Senior Captain*," "*Commodore*," "*Flag-Officer*," or "*Admiral*," you are to-day, as you have been for years, at the *head of the Navy*—which, as a body, without regard to "cliques" and "cabals," holds you in all honor and admiration, as their long-honored and world-renowned chieftain.

Among whom, though one of the humblest of your friends, I desire to subscribe myself, in sincerity and devotion.

Truly yours,

THE AUTHOR.

NAVAL COURT OF INQUIRY,

SITTING AT WASHINGTON, MAY, 1857.

Commodore E. A. F. LAVALLETTE, President.

*Capt. WM. J. McCLUNEY, }
HENRY A. ADAMS, } Members.*

CHARLES H. WINDER, ESQ., Judge Advocate.

*LIEUT. W. A. BARTLETT, U. S. N.,
Appellant from the arbitrary decision of the "Navy Board,"*

AND

*Represented by P. PHILLIPS, WM. H. ROGERS, and T. M. BLOUNT,
ESQTS., Counsellors.*

*The Court having heard testimony for fifteen days, Mr. Rogers
in the name of Lieut. Bartlett read the following argument or
"defence," which was admitted to the "record."*

MR. PRESIDENT, AND GENTLEMEN OF THE COURT :—

THE case which now approaches its termination has been attended with greater publicity, and probably more comment, than have connected themselves with any other of the findings of the late Navy Board.

This prominence, and the public attention which has been drawn towards me, have not been of my own seeking, but have, in a measure, been thrust upon me.

The records of the Senate of the United States show, that I, a petitioner for justice and redress to the Legislature of my country, was selected from a large body of memorialists, to endure the scrutiny of the Naval Committee of that honorable body, as to my competency for the service from which I had been unceremoniously "dropped." Whether I was intended to be held up to public view as the example of a stern but necessary vindication of the *propriety* of the proceedings of THE BOARD ;

or, whether the examination was instituted for any purpose of redress, I leave to be determined by the character and spirit of the investigation to which I was then subjected.

That my name should be sounded in the public ear, with echoes yet prolonged, and blazoned in the sight of the nation in connection with the vilest epithets and the most degrading accusations, was to me more painful, and, to those nearest and dearest to me, more agonizing than death. But notwithstanding this anguish, I could not, and did not regret its cause, for it was necessary to the salvation and rescue of that which is more valuable to me than life. I knew that if I could but expose the slanders which had been hissing their venom around me to the light of truth, their fangs were hurtless, their menaces contemptible.

In the extremity of persecution I found another and a gracious compensation. If ever man had reason to be proud of the sustaining aid of friends, not merely sympathizing, but energetic in devotion; not only consoling me by social countenance, but supporting me by the dignity of high station, and the power of intellectual supremacy; I am that fortunate person, who now, at the most solemn moment of a varied career, pause to look back, and take fresh encouragement from the kindness which has cheered me onward, and to record the gratitude, full, earnest, and abiding, which urges this most fit acknowledgment of deep obligation.

To you, also, gentlemen, are my thanks most justly due, for the patient attention and kind courtesy which have accompanied this investigation.

The publicity with which my case has been invested has been productive of one considerable disadvantage. The partisan efforts of many of the zealous and interested adherents of the Navy Board have been directed against me; and the enmity, which for more than ten years had seemed to be extinguished, has been raked from its ashes, and fanned into rekindled intensity.

Without regard to the lapse of time and its inevitable effect upon human memory—without consideration of the injus-

tice and iniquity of accumulating vague aspersions, unsubstantial rumors, hostile opinions, and illogical inferences—everything which rancorous enmity could gather, or unconcealed hatred distort into the appearance of injurious imputation, has been set in motion, and concentrated against me.

It is true that this record, while it exhibits an increased number of charges, shows a smaller amount of what has heretofore been received as testimony; but this I owe not to the forbearance of my assailants, but to the power of that TRUTH, in which, more than ten years ago, I placed and declared my trust, and on which alone I now rely for my final justification.

In approaching the concluding act of this investigation, I cannot, if I would, dissemble or conceal the important and pervading influence which its decision is to exercise upon my reputation and my fate. Subject to that ultimate appeal, the generous and unerring impulse of popular appreciation, which, truly estimated and rightly formed, is indeed the voice of Deity, you are the arbiters of my temporal welfare.

But not to me alone, with my petty interests and passing cares, is the issue of this proceeding momentous. The cause of JUSTICE, the immutable principles of TRUTH, are involved in the result. These, the highest interests and the sublimest ends of humanity, are, with my humble character and feelings, to be "crushed to earth," or rise triumphant from the efforts of a combination which has seemed to be imbued and guided by a fiendish and persistent malice, which, I trust, will find few parallels in the history of the service.

I do not, for one moment, doubt that the members of this Court are not only *disposed*, but *anxious*, to accomplish the purpose for which its remedial jurisdiction was established—the correction of the gross errors, and manifest injustice of the proceedings of the Navy Board.

The character of this Tribunal, and the mode in which its power is to be exercised, are in striking contrast with the arbitrary authority assumed under the "Act to promote the efficiency of the Navy." The statute under which this Court is

organized was intended to amend, not merely the provisions of the original act, and their improper construction, but, more particularly, the unfortunate results which were produced under its pretended sanction. For securing these important ends, it not only ordains a radically different mode of procedure, but also supersedes the whole action of the late Board, even to the extent of recognizing those who were doomed to be "dropped" from the service, as still entitled to the designation of officers of the Navy. The remedial act, it is true, speaks of *restoration*, but, for the purpose of effecting this, it suspends the whole operation and effect of the original finding, and not merely re-appoints the successful applicant for relief, but rehabilitates him to all his former rank and emolument.

It is, however, most especially in the *mode of procedure* that we find the strongest contrast, and the most effective reform. The action of the Navy Board was purely and absolutely *arbitrary*. Its sole rule of conduct was its own uncurbed and unregulated *will*. Without established form of proceeding, without notice to the parties affected, investing the suggestion, the whim, or the vengeance of a member, with the competency of evidence, and making his unauthorized belief sufficient ground of conviction, its course of inquiry and its conclusions were alike despotic. Its jurisdiction was fantastically stretched to whatever might be regarded as a pretext for proscription. Its power was boldly extended beyond all those constitutional and legal bounds which had previously confined every other institution of the country; and its indiscriminating sentence affected with a common imputation all the widely varying classes and persons comprised within its terrible decree.

The appellate, or revisory power—a full and complete portion of which is vested in this Court—is, if not wisely and sufficiently limited in extent, yet specific in its character, and regulated in its exercise by distinct and inflexible rules of procedure. It is to be exercised for a definite purpose, in a prescribed mode, and for results pre-determined by the principles which are declared to be imperative in their ascertainment. Nothing is

left to the mere discretion of the judges ; but the judgment is to be regulated by the same restraints, constitutional and legal, and to be deduced in accordance with the same inductive reasoning which determines the conclusions of ordinary civil and criminal Tribunals.

This Court does not possess even the same latitude of proceeding and determination as a common Court of Inquiry. The reason and the proof of this are to be found in the statutory description of its jurisdiction. An ordinary Court of Inquiry is invested with authority to collect facts, and, in particular cases, to express opinions. But its report is merely of an interlocutory and inconclusive character. It determines nothing. Its action has no conclusive effect. Although there occurs in the act of Congress creating these Courts of Inquiry a distinct declaration as to the law and regulations by which they are to be governed, yet it is manifest, not only from the statute itself, but from the amendatory purpose of its creation, that the sole object of this enunciation was to prevent laxity of action or of principle in the conduct of the investigation. When we come to consider the character and effect of its finding—vastly different from that of ordinary Courts of Inquiry, which make no decision—we derive an irresistible inference that the restrictions upon its mode of proceeding are more strongly defined, and necessarily assimilated to the strictest rules of evidence and judgment which regulate civil and criminal proceedings. This is evident from the distinct and specific character of the jurisdiction committed to this Tribunal. Unlike an ordinary Court of Inquiry, which is empowered to report facts, and express opinion, without any precise limitation except its own judgment, this Court has, on the contrary, a defined, and precise, subject matter, towards the ascertainment and conclusive determination of which all its powers and proceedings are to be undeviatingly directed.

The practical question which is presented in the present case, emphatically calls for the application of the strictest rules of evidence.

If this Court were called upon, in the present instance, to exercise the ordinary power of a Court of Inquiry, that is, to collect facts, for the purpose of determining the propriety of ulterior proceedings against me, no great injustice might be done by some relaxation of the principles which properly apply to the ascertainment of facts.

But when it is considered that, in truth, this Tribunal is a Court of Inquiry only in name—that its office and duty are to ascertain facts not as the mere inducement to a future proceeding, but with a view to final and conclusive judgment, it is obvious that justice demands that all the legal and constitutional restraints which have been provided for the protection of accused parties, should be maintained in full and unimpaired vigor; that no mere nominal resemblance should induce or allow a departure from the rigid rules of legal investigation, which are imperatively demanded both by the character of the inquiry, and the result by which it must be terminated.

In the present instance, the propriety of adhering to the strictest rules of evidence, is enforced by the nature of the principal accusation. The charges against me, if having any foundation in fact, or semblance of reality, are of a quasi *criminal* character. If they were the subject of investigation before a court-martial, it would at once be conceded that the hearing and consideration must be regulated by the most rigid principles of law, although an adverse finding might inflict a comparatively trifling punishment. But here, where the issue affects both character, and continued expulsion from the service, it has been most strangely contended that the investigation may be loosely and illegally conducted, because the act of Congress has imperfectly entitled this radically different Tribunal, a Court of Inquiry. Those who do not, or will not, look beneath the mere surface of words and names, may be deceived by the false analogy, but the slightest insight of the interior structure and vital purpose of the statute will convince any reflecting mind that it indicates a wholly different mode of action.

I have endeavored to show that the resemblance is merely

nominal ; that in truth the jurisdiction vested in this Court is vastly greater and higher, directed to different ends, and productive of widely dissimilar results.

Besides, it is a fatal error to suppose that there is in truth any recognized laxity of application of the rules of evidence to proceedings before the ordinary Courts of Inquiry organized, in our service, under the act of 1800.

The principles applicable to military cognizance are precisely identical with common law rules, whatever looseness of practice may have prevailed in reference to the matter.

The Courts of Inquiry, so called, established under the act of January 16th, 1857, unlike the English Tribunals of the same name, are not mere Councils, or advisory bodies, but invested with *full judicial powers*, conducting their investigation under the same solemn sanctions which prevail in the administration of criminal justice, and endowed with full and exclusive power to determine the matters properly falling within their jurisdiction. Dissimilar, therefore, as they are in their whole character, there can be no proper analogy in their mode of proceeding, and it is beyond question that the laxity prevailing in the English practice, where neither judges nor witnesses are sworn, can find no proper footing in tribunals so radically different as these in which my judges sit to administer final and determinate judgment.

Let me, then, gentlemen, as my first aim, and your leading duty, request you to look through this record with a calm judicial scrutiny—guided by the only true and safe principles—determined to separate the few grains of fact from the over-running bushels of opinions, motives, imputations, and inferences, which have been so abundantly heaped upon the case for the obvious purpose of concealing its true character and proportions. I trust it will be admitted that I am asking simple justice, and conceded right, when I demand to be judged by *facts*, and not by *OPINIONS of facts* ; to be tried on my own *acts*, and not the *inferences* drawn from them by prejudice and enmity.

It is proper, then, at the outset, and throughout the discussion of the testimony, to invite particular attention to the wide difference between the *facts* alleged against me, and the *glosses* and *coverts* which have invested them with an utterly false appearance. The matters charged, divested of the epithets attached to them by the witnesses, will claim a very different consideration from the judicial mind. Their "native hue" is one thing, but the tint with which they have been "sicklied o'er" by suspicion and prejudice, is quite another.

There is a further preliminary consideration which it is my duty to bring to the especial notice of the Court. It is the glaring fact which attracts the most careless and casual glance at the record now before you. Like the crimsoned letters of an illuminated manuscript, it allures the eye whenever you look at the testimony of the government. NOT ONE FAIR, CANDID, AND DISINTERESTED WITNESS HAS BEEN PRODUCED AS TO ANY MATERIAL MATTER AGAINST ME. *They are nearly all PARTIES holding antagonistic relations towards me, as to the very matters to which their testimony refers.* It would perhaps be asking too much to expect from human nature the simple naked truth under such untoward circumstances. In the civil and criminal courts of the country, without any special impeachment, the attitude the principal witnesses hold, and have for eleven years held against me, would, of itself, cast discredit upon their statements. I know that upon the stand there has been a studied and concerted attempt to smooth the "wrinkled front" of that hostility which yet shines apparent under all disguises. I know that a show of unembittered feeling, and pure and unbiased motive, has been ostentatiously paraded through the case; but I find no evidence of charity or justice, either in word or act. I should have hailed with even grateful satisfaction the least appearance of a relaxation of the unrelenting spirit, which through time, separation, and distance, in spite of good works and established character, has not only been sternly retentive of past grudges, but keenly alert to pick up any new imputation which malice could invent, or hate discover.

I ask, then, for my enemies, as I have demanded for myself, that they shall be judged by *acts*. They *combined* against me at the time of the alleged occurrences of which they have testified. They have ever since, with a common feeling, and a common purpose, clung together. Their spirit circulated, to the exclusion of every other influence around the Board of that Council, whose action has stamped its ineffaceable seal with mournful blackness upon the Register of the Navy. Their combination was sustained before the extraordinary but fruitless investigation of the Committee of the Senate. They are now, after the lapse of eleven years, arrayed in concert against me, not in accordance of facts, but in unison of imputation and suspicion. They constituted themselves not only my *accusers*, but my *judges*; and the common feeling which has animated their testimony will be abundantly exhibited by the dissection to which I propose to subject it presently. In the mean time let this fact be omnipresent in the consideration of their statements, *they were associated by written pledges*, which in the beginning exhibited them, and still shows them, in the extraordinary combination of accusers, judges, and witnesses. They imposed upon themselves a bond of union from which there was no escape, which tied them down to the maintenance of particular allegations, of the grounds of which some of them admit utter and entire ignorance.

I proceed to inquire what have been and are the allegations which have been made against me, and which are now relied upon as evidence of my moral unfitness for the naval service. Fortunately they are in such shape that their original character and development can be easily and certainly ascertained.

In the letter of October 8th, 1846, whose sole object is expressed to be a communication of the "feelings" of the writers, and whose strange and inconsistent object is avowed to be, the purpose of "*placing me in coventry*," after I had "*ceased to be a member of the mess*," when I had been for some time detached from the ship, and engaged in the earnest and incessant discharge of purely civil duties—it is charged specifically

that they had become "convinced" that I had "betrayed the trust reposed" in me "by the most culpable negligence;" and vaguely intimated something "far more serious," and "other acts" equally indefinite.

When my "tone of defiance," and demand for an investigation had "drawn from them," as Commander Missroon testifies, the replies of the 16th October, this charge is entirely abandoned by the executive officer. The serious moral imputation is abandoned, and the official allegations against me, taking the facts without the epithets, are sales of clothes and cigars; speculating upon a private library; soliciting subscriptions of money, selling an article of dress at Monterey, and afterwards "withdrawing the article."

The mode in which these matters are characterized will form an important subject of future consideration.

These allegations are grouped together under the head of "unofficer-like conduct."

There are other "instances" hinted at which were supposed to place me in a "worse light," but until towards the conclusion of this hearing, they had never been developed, and were entirely beyond my conjecture.

In the rejoinder of the mess, Captain Montgomery is informed of the opinion of the writers as to a "palpable mal-administration" of mess affairs;—"suspicions of dishonesty," "strengthened by delay, and evident reluctance in yielding up the mess accounts to his *successor*," "confirmed by the course of examination." It was further stated, as matter of fact, that I had "charged more than the actual daily expenses;" had "altered the items to suit the evidence," and had balanced the accounts by a "convenient insertion of sundries."

The "other acts," they say, "scarcely require recapitulation," but "to avoid a charge of vague generalities in a matter so serious," they cite as an "instance of disreputable conduct," which "had great weight," the "smuggling and disposing" of the "article of dress" at Monterey.

The epithets, glosses, and coverts contained in this letter will be noticed in their proper connection.

Such are the allegations insinuated against me in 1846, and they are substantially identical with the imputations spread upon this record in 1857.

I re-appeal to the "power of truth," as far as it has been elicited by this investigation. The witnesses *against* me all survive. The testimony which would clear up a portion of the imputation has been precluded by death.

The first charge, in order of time, relates to the library taken on board the Portsmouth in 1844.

I meet it, with all the superadded suavity (?) which the fruitful imagination of the executive officer lavished upon it. Did I "*speculate* upon a *private* library," and "*meanly* solicit subscriptions for its use?" There are two witnesses who have testified on the part of the government in relation to these books—Commander Missroon and Purser Watmough. The former entirely varies the charge when he comes to re-state it before this Court. He now accuses me of disobedience of an order as to issuing subscription lists to the crew. The proof is thus stated: "I found a subscription list circulating on the berth-deck for the signatures of the men by the signal quarter-master. I called him to account, and he referred me to Mr. Bartlett. I questioned Mr. Bartlett concerning this disobedience to my order, when he at first denied that he had authorized the circulation of it, and subsequently *tacitly admitted that the quarter-master might have misunderstood him.*" Commander Missroon has not vouchsafed to explain, metaphysically or practically, how there can be such a thing as a *tacit* admission of such misunderstanding, or how that affects or diminishes the force of the previous denial. It becomes, therefore, necessary to analyze, and endeavor to comprehend this extraordinary disobedience. A *tacit* admission is in itself easily understood. It is the acquiescence implied from the *silence* of a party when personally charged with any matter of accusation. But the *tacit* admission by one person of a misconception upon

the part of another would seem to be beyond the reach of mere human understanding. Now it was perfectly apparent that the testimony of Commander Missroon was very carefully prepared, and was collated, with matters subsequently promulgated from other sources, therefore we must consider his phrases as important. If, then, I "*tacitly admitted*," as there appears to have been no other person present, he must have made some charge or assertion, and that charge or assertion must have been precisely and identically what I "*tacitly admitted*." He then charged that the signal quarter-master had misunderstood me in regard to the subscription-lists. I *tacitly* admitted that he had. The question now occurs, how did that admission affect my previous denial as to authorizing the circulation of subscription-lists among the crew? Instead of impairing its force, it effectually and completely confirms it; and upon Commander Missroon's own statement I stand exonerated from this charge of disobedience. I need, therefore, scarcely refer to the testimony which almost in the same breath had just before fallen from the same lips. "He NEVER *failed* to carry out the orders given to him to the satisfaction of the executive and the captain."

But, again, I demand, where is the proof of the *original* charge of *speculation*, and *meanness* in relation to this library? Purser Watmough says, that I solicited subscriptions from the officers; that he, himself, subscribed. He does not attempt, however, to characterize it as in any respect improper. Commander Missroon states that it was "*reported*" to him, that two passengers had been solicited to subscribe—Dr. Chase and Mr. Delazon Smith. In the cross-examination he said that Purser Watmough had made the report. Admitting, for the moment, the literal truth of these statements, I ask from what is derived the imputation of *meanness*, or the proof of *speculation*? Purser Watmough, however, is entirely silent as to his alleged report.

Further, it appears from the testimony that the library was introduced with the express assent of the commanding officer of the ship—that he approved both the object proposed and the

result accomplished, and I think, upon his statement, without a superadded word of mine, I may fairly leave this matter to the consideration of the Court, and (if it so please him) to the continued strictures of Commander Missroon ; unless, indeed, in this, as well as in other things, he is content to "abide by what Captain Montgomery may say."

Well, Captain Montgomery does say, distinctly and emphatically, not only that he authorized the introduction of the library, but approved of the influence it contributed to the enjoyment of the crew, and the promotion of good discipline ; and would be glad to have another in the ship he now commands, upon the same terms.

I will but add, in regard to this, as well as all the other imputations against me, that the approbation of one such man as John B. Montgomery, outweighs, in my estimation, the censure of a whole ship-load of some others.

The next item of charge, in chronological relation, refers to the allegation which is thus set forth in the official communication of the executive officer of the Portsmouth : "in bringing to sea a stock of clothing, cloths, cigars, etc., which were vended to his brother officers and others, making his state-room a kind of huckster's shop, and degrading, thereby, the respectability of the ward-room."

The "Coventry" letter, and the subsequent rejoinder of the associates of the mess, are entirely silent upon this subject. The witnesses, whose signatures are affixed to those communications, with the exception of Commander Missroon and Purser Watmough, have not testified one syllable upon this point. The allegation, as framed by the executive officer, and which he pledged his "immediate readiness" to submit, with all the form and circumstance of charge and specification, extends in terms to the declaration, that I kept a retail shop in my state-room, where I vended to "officers and others" "a *stock* of clothing, cloths, cigars, etc.," the et cætera including, I presume, the ordinary supplies of a "huckster's shop," into which I converted my state-room, and thereby "degraded" the ward-room.

If this charge be true, it was easily susceptible of complete establishment, by positive proof. Here is a fact proclaimed, which needed no *opinions* or *inferences*, but merely assertion. It must have been within the knowledge of every inmate of the ward-room, which was “degraded” by its contact with the “shop.”

Why, then, have we been left to infer the existence of so extraordinary a spectacle occurring in the ward-room of a man-of-war, from the solitary fact that I permitted Mr. Delazon Smith to have a few shirts, as a matter of accommodation, and that I received the fair value of the property so disposed of for his convenience ?

What criticism, however prejudiced, can establish any distinction between that transaction, and the arrangement by which, for Dr. Duval’s convenience—and he says it was a great relief to him—I took from him the box of china for the specific value of twelve dollars ?

Commander Missroon has expended a vast deal of ingenuity in endeavoring to make at least *verbal* distinctions between the purchases and sales of other officers and those attributed to me. When interrogated as to his own transactions of this character, he, at first, made a peremptory denial of any such occurrence. His subsequent admissions and elaborate explanations are fresh in the memory of the Court, and are spread at great length, and with extraordinary accompaniments upon the record. To this I have no objection, except that I do not think such harmless trifles require a studied and prepared apology. What I complain of is simply this : when I sold, what the *nature of the articles*, as well as the testimony in the case show to have been necessary for the accommodation of others, the act is stigmatised by the strongest epithets and the most sonorous adjectives ; but when Commander Missroon does precisely the same thing, the transaction is veiled by the daintiest covering, and delicately entitled a “*transfer* !”

I have submitted to the Court the evidence of the real character of the transactions between Mr. Delazon Smith and myself,

by which it distinctly appears that there was not a mere isolated sale to him, but a series of interchanges of mutual accommodation.

I little thought when, in accordance with my usual habit, I placed away that little scrap of soiled paper, that it would ever become an instrument of evidence, important to the defence of my character, and be produced before a tribunal like this, invested with the dignity of a certificate, attested by the national arms and the signature of the venerable Secretary of State.

We know not what an influence the merest trifles may sometimes exercise over our future fate.

But I ask again, where is the proof of the charge as made? If it is too largely asserted, and no evidence exists to make it good, it falls back, like living fire, upon the head of him who unjustly preferred so outrageous and unjustifiable an accusation.

I proceed now to consider the few circumstances exhibited by the record in reference to the "article of dress" alleged to have been sold, "at an exorbitant advance upon its cost, to a lady at Monterey." When the executive officer held himself in "immediate readiness" to include this matter in his charges and specifications, why was it necessary to affect an apparent mystery in reference to the character of the "article?" Was it a more sonorous allegation to confuse it with the acknowledged indescribables of a lady's toilette, and to connect with it the ominous terms "private" and "secret?" In the subsequent letter of the confederates of the mess, the same significant mystery is observed. The charge is also associated with new adjuncts and more impressive adjectives. It is alleged that I "disgraced myself as an officer, and reflected discredit on my ship." The imputation of "smuggling" is boldly attached to the transaction; the idea of "exorbitant advance" is repeated; my "sense of impropriety" is said to have been "evinced," and the assertion of "shameful equivocation," is superadded. The previously asserted circumstance, of withdrawal of the "article," is omitted. The names of Messrs. Missroon, Watmough and Harrison are, among others, affixed to these allegations.

They have been confronted with me before the Court, and what do they now assert? Purser Watmough cannot declare that I ever had such an article in my possession. Lieut. Harrison does not allude to it. Commander Missroon asserts that I confessed the fact, withdrew the article, and excused myself for the sale, because I did not want the "*shawl*," for that appears to have been the mysterious "article;" and it was difficult to preserve.

I have but a single comment to make upon this statement. It depends upon the memory of Commander Missroon, who says that he is certain of the *substance* of the various conversations, but will not be understood as attempting to give precise words.

And yet in a matter like this the most unintentional variation may give a wholly different color to the entire transaction. I must therefore resort to the only test within my reach, for the purpose of questioning the accuracy of Commander Missroon's recollection. The experience of all who have been conversant with the administration of justice, or have, in any way, been under the necessity of scrutinizing human testimony, will assure them of the strange facility with which men can persuade themselves of the truth of something they have merely *fancied* they have seen or heard. The popular paradox we sometimes find applied to individuals, stigmatizing them as so given to lying as to believe their own falsehoods, is founded upon this experience. It is unquestionably, and frequently true, that honest, but credulous or interested parties, sincerely persuade themselves of the truth and reality of matters which have no actual existence. The process of self-delusion, to a greater or less degree, is, perhaps, common to all men.

I believe that in the present instance, Commander Missroon has heard the statement he makes from some other person, and has erroneously attributed it to me. I found this conjecture upon the fact, that he admits his original information to be derived from a *report*, and more particularly from the strongly suggestive circumstance, that in his official letter of Oct. 16th,

1846, he expressly states, "my information on the foregoing points was mainly derived from the ward-room officers," and does not insinuate a word about any confession, nor does the letter of the confederate members of the mess, bearing the same date, make any allusion to an *admission*, but, on the contrary, repels the inference by what it does actually charge, as well as by the subsequent boast that what they do assert is "susceptible of the fullest proofs." They have probably at length discovered the difference between allegation founded on suspicion and surmise, and proof based upon substantial facts.

But, however this may be, I am now on trial in defence of my honor, as well as my interests, and I therefore solemnly repeat what I have uniformly asserted in reference to this charge. I *presented* the shawl to the lady in question. She desired to pay for it, which I declined. When her husband came home, he, in return, presented me with a horse of about equivalent value, which I rode as long as we remained at Monterey, and left in his stables at my departure.

This last fact is positively established by the testimony of Mr. Revere; but of the main fact that the shawl was a present and not a "*transfer*" I cannot offer to the Court the only possible legal proof in consequence of the death of both the parties.

But I ask, and the question is both suggestive and significant, would Mr. Howard have been likely to present me a horse except in return for something, or, if I had meanly sold his wife a shawl at an exorbitant advance upon its cost?

Before entering into the question of the mess-accounts on board the Portsmouth in 1846, I propose to submit a few remarks in reference to a point which, although relating to this matter, was never made a part of the difficulty, and therefore properly demands a separate examination.

Dr. Duval states that he paid to me the initiation fee—which the Court will understand to be the value of the interest he acquired on the mess-furniture and stores on hand—and \$30 on account of mess-fund. That as to any further payments he

desired me not to draw on his account from the purser, as he had in his possession Mexican coin which he would prefer to apply to that purpose. That he afterwards learned by a verbal statement from the purser, at the time of signing his books, that \$30 more had been drawn by the caterer on his account. That he never, at the time, nor on any subsequent occasion during the intervening period of eleven years, had alluded to this matter, except in conversation with the purser; and that he never, in any mode, apprised me of his suspicion or belief, that he had overpaid me that, or any other account.

Admitting this alleged over-payment to have been actually made, and unaccounted for, it is difficult to comprehend how the most rabid animosity could attach to it any other inference except that it was an involuntary error, and this seems to have been the idea suggested *originally*, in the mind of Dr. Duval—indeed, he so states expressly; but I mean to demonstrate that the error is all in the impressions of the witness, and that the circumstance never could have had an actual existence.

The first question which occurs is simply this: has any such payment been proved? When Dr. Duval was about to state the purely hearsay testimony upon which the matter rests, it was objected that it was not competent evidence, and the proper legal proof was distinctly designated. The very statement of the witness discloses, without the exception noted on the record, two distinct objections to its character and validity—either of them sufficient to show the necessity of its absolute rejection. He stated that it was *mentioned to him by Purser Watmough, when he signed his books*. This declaration of itself indicates two better sources of information, the evidence of Purser Watmough, and the exhibition of his books. These were indicated by the objection taken as the only competent evidence, and it was understood that the books were sent for from the Department. *They were NOT PRODUCED; nor was Purser Watmough, although subsequently recalled, interrogated upon the subject. The conclusion is inevitable, no such facts could be made to appear!*

But again, IF ANY SUCH SUM HAD BEEN RECEIVED, IT WAS FULLY ACCOUNTED FOR.

If there be any fact distinctly proved in relation to the mess accounts, by the concurrent testimony of all the witnesses—including Dr. Duval—it is, that there was no question whatever in relation to the debit side of the mess accounts. Dr. Duval says, "There was no suggestion from any quarter that Mr. Bartlett had not charged himself with all that he ought to have been charged with." Let it be remembered that the investigation of the mess accounts occurred immediately after I had ceased to be caterer. Dr. Duval and Purser Watmough were irritated parties to the controversy. The \$30, if drawn at all, had very recently been paid. It was fresh in the knowledge of the purser. The amount received from the purser was the prominent item in the debit side of the account. If not including the whole amount drawn, the fact was susceptible of instant demonstration. If included, it was accounted for by me ; and if there was any error as relates to Dr. Duval's proper assessment, it rests with the purser's pro-rata distribution of the whole amount drawn. If pure mathematical reasoning can lead to any surer conclusion, I have not the ability to understand the force and relation of admitted facts.

The evidence of guilt upon which the prosecuting witnesses rely is to be found almost exclusively in the demeanor, which by the easy coloring of imagination, they are pleased to impute to me with so lavish an unanimity.

I might fairly say to this Court that the law books declare such tests to be both unreliable and dangerous. I might appeal to experience and common sense as to the absurdity of drawing serious conclusions from such uncertain and variable premises. I prefer, however, to rely upon what I trust will be considered sufficient proof of the contrary of these assertions.

It will be remembered that the several witnesses adduce neither words nor acts to support their assertions in regard to the *motives* by which they chose to suppose I was actuated. They inferred guilt from my *looks* and manner.

Commander Missroon says I “looked confused” upon one occasion ; in another connection he states that I “looked very much depressed.”

Lieutenant Harrison declares that my manner was “agitated and at times depressed.”

Purser Watnough “*thinks*” I “did not meet the allegations as an honest man.”

Dr. Duval testifies that I “exhibited a great deal of agitation.”

In these extracts I believe I have stated each and every of the *allegations* of the witnesses, if I may be permitted to use their favorite phrase.

Need I seriously ask this Court, whose members have from “old experience,” a large and varied knowledge of human nature—whether *confusion*, *agitation*, and *depression* are not the indications of wrongly suspected honesty, rather than of conscious guilt. Guilt generally assumes boldness and defiance ; innocence very frequently exhibits *confusion*, and almost invariably *agitation* and *depression*, and is sometimes utterly crushed and confounded.

May I not fairly claim to weigh against this interested testimony, concerted in 1846 even to the very terms of their accusation, and necessarily adhered to since, the impartial and reasonable statements of Captain Watson and Mr. Revere.

Captain Watson distinctly and emphatically declares that my “bearing was that of a man who had been seriously injured,” and Mr. Revere uses the same term which had been previously used by others of the witnesses, “agitated,” to express a totally different conception.

But in addition to this, I have fortunately the recorded evidence of what my feelings really were in the words of my communication to my messmates at the very time of the transaction. I say to them, “the state of my mind is too *painful* to be borne.”

I simply ask you, is not that statement the key and explanation of the whole matter ?

But is it not a novelty in the administration of justice to propose to convict a man because he *looks guilty*, even if we are quite sure we have his looks interpreted by an unjaundiced vision. It would be a summary process to dispense with proof of the offence charged, even upon the completest evidence of *confusion, agitation and depression*. Such a course might accord with the prompt injustice of the Navy Board, but it will not be pursued by a Court who have placed upon this very record that solemn pledge, "well and truly to examine and inquire, according to the evidence, into the matter now before you, without partiality or prejudice."

Under that sanction, I know that you will demand something more than the suspicious inferences and opinions of witnesses to convict me of the specific charges of dishonesty and peculation, or embezzlement.

The charge necessarily involves this distinct specification, that in some mode I converted to my own use the money placed in my hands for the purposes of the mess. I am not to be *tried* much less *convicted* of irregularity in my accounts, for "confusion worse confounded" in that respect would have no tendency to show that I am morally unfit for the service. But, to advert for a moment more to the fancied indications of guilt, allow me to ask why I should have exhibited in October, upon the repetition and formal embodiment of the "allegations," a defiance and denial which my accusers would have you believe I was totally wanting in before? The answer is easily found. As long as these suspicious gentlemen muttered their imputations in their own circle, I could only keep aloof, but the moment their innuendoes were converted into something that looked like a charge (although notwithstanding the high sense of duty which induced them to be cold and distant, it was even then intended only as a means of private annoyance), I promptly met them "with the most positive denial." After my exposure of the communication of October 8, and the stand I took in reference to the matter, nothing more is heard of conscious guilt; but

another assumption is gradually built up—namely, that I failed to insist upon an investigation.

By what time this charge became perfected it is impossible to conjecture. It was first heard of in the Navy Board, to which immaculate tribunal “it appeared” “sustained” by the “personal knowledge” of a “member,” notwithstanding that same member, in his testimony before this Court, admits that there was no opportunity of trial until November, 1847, and it appears by the testimony of Captain Montgomery, that the Court in question broke up suddenly, and that really there was no opportunity even then.

But the question now to be considered is the amount and character of the proof upon the record to substantiate the specific charge of dishonesty in the management of the mess funds.

Where do we find upon this record one tangible, well-ascertained fact which, either alone or in combination, has even a tendency to prove the charge, or even to raise a just imputation from any portion of the transaction? What witness has stated a single circumstance which is entitled to the character of *evidence*, much less proof?

Purser Watmough was the first witness examined upon this point. It is not very material to inquire whether the memory of this witness is at all reliable, because he discloses no fact save one, and that is the admitted fact that I was caterer. It may, however, be mentioned incidentally, that he misplaced the subsequent court-martial by a whole year, and prolonged my absence from the ship to a much greater time than it actually covered.

The principal matter connected with the testimony of Dr. Duval I have separately discussed.

The only additional facts stated by him are, that in about two months after leaving Mazatlan the provisions were found nearly exhausted.

This is stated more strongly than most probably the witness intended, as he said we found “no provisions”—“literally nothing.”

He says further, that I produced accounts, which he (among others) partially examined. He subsequently stated several small matters going to show irregularities in the accounts—that they were on different sheets—the prices opposite, but the sum total carried to a different piece—that errors were found in one or two instances, which, when pointed out, were corrected ; but “ *that these mistakes involved no material amount.*”

The testimony of Lieutenant Harrison goes solely to the points of my demeanor and the feelings of the mess. He stated nothing in reference to the accounts or transactions connected with them.

Commander Missroon states, first, that he informed me of the necessity of procuring a six months supply of groceries, although not at liberty to communicate where the ship was going *that evening*—that I informed him in the afternoon that I had procured supplies for six months ; but that in a few weeks they began to be exhausted, and this caused dissatisfaction. He proceeds to state as follows : “ A short time subsequent to this the accounts were submitted to the mess, the sums originally charged had been changed to suit the statements of the ward-room steward, with sundries inserted to balance the account.”

I believe these references and extracts include a fair recapitulation of all the *facts* alleged by the several witnesses in regard to the mess accounts.

It will be remembered, that in the joint letter of October 16th, 1846, I was charged with “dishonesty in the disposal of funds,” and “delay and evident reluctance in yielding up the mess accounts.” It is true it was alleged in the form of “suspicion,” but as they have been assumed by the witnesses as equivalent to *proof*, it is scarcely worth while to note the distinction.

It is worthy of remark, however, that not only are such charges or “suspicions” not now sustained by proof, but *as to the latter, expressly disproved by the very parties who made the allegation in 1846. They all concur in the statement that my accounts, loose sheets and all, were submitted to them and examined by*

all, within, at the furthest, two or three days after dissatisfaction was exhibited!

It will also be remembered that Captain Watson declares that I submitted my accounts and vouchers for examination promptly, without delay or reluctance.

Commander Missroon who, in 1846, stated, under his hand, that I had exhibited "delay and evident reluctance in yielding up the mess accounts," now, in the presence of this Court, and upon its record has inscribed his own condemnation, when he declares: "Mr. Bartlett came to my room and requested me to look at some accounts, which I declined to do." "*He URGED me to examine the accounts, and I yielded.*"

I have this further to say in reference to the testimony of Commander Missroon: Either he did not advise the purchase of six months' supply of groceries, or he did not know where the ship was going, for we arrived in twenty-two days at a port, (Monterey,) where there were equal facilities in procuring such supplies as at Mazatlan. Again, it is simply impossible that I could have informed him I had procured six months' supply, as the vouchers show no such amount purchased. Further, it is evident, when he speaks—in the language I have quoted—of the "accounts submitted to the mess," he alludes to the identical accounts now before this Court. A mere inspection will prove that they contain no such word or charge as "*sundries,*" but that the specific and most minute items are uniformly entered.

The utter want of correct and precise recollection, has been remarkably exhibited upon those pages of the record, which show his conflicting statements and amendments in regard to the simple matter of the presence of the Flag Ship at San Francisco, between the 1st of July and the ensuing October.

The defective memory of this gentleman, and others of the witnesses in reference to facts and things, would, in itself, be nowise unnatural after the lapse of eleven years; but when brought into contrast with the distinct and positive recollection

of looks, feelings, motives, opinions, and words, it is certainly mere charity to pronounce it *remarkable!*

The original cause of any slight confusion which may, in the first place, have existed in the mess accounts (although I admit none), grew out of the condition of the steward on the day of sailing from Mazatlan. The ship's log shows that on that day it was my watch from eight o'clock in the morning until the same hour of the evening. Although relieved for a short time and enabled to get on shore, I was obliged to employ the steward and others to make purchases for me. The steward came off intoxicated, and at first declared I had given him no money. I afterwards found some of my vouchers in his pocket. Commander Missroon, although admitting—not in direct terms, but generally—that the steward was worthless, endeavors to argue against the probability of his intoxication in this instance, because, had he been so, he would have paid no attention to what he said. I think the Court will scarcely entertain a doubt about this matter, when they recall the distinct and positive recollection of Captain Watson, who had charge of the guard and prisoners, that the man "*did come off intoxicated, and was put in the 'brig.'*"

But the only important question to be determined, as a matter of fact, in relation to the mess accounts, is, were they examined and settled by the mess, or any persons on their behalf?

If any matter can be established beyond doubt by human testimony, surely this has been fully and perfectly proved by the whole concurring testimony on both sides.

Neither Purser Watmough nor Lieutenant Harrison states in express terms whether they did or did not assist in the investigation. Captain Watson and Mr. Revere both state that Watmough participated. Dr. Duval admits that he made examination up to the period of his joining the ship. Commander Missroon informs you that when urged he inspected them. Mr. Revere states that he went through them to his entire satisfaction. Captain Watson proves that there was a thorough

and complete scrutiny, extending through nearly a whole day, and that everything was found right ; and he and Mr. Revere coincide in the declaration, that the result of the examination was satisfactory to the whole mess. All the facts, and all the probabilities accord with the statements of these two gentlemen, certainly not the least intelligent and candid of the witnesses produced in this investigation. There is not on the other side one fact, circumstance, or reasonable conjecture, to counteract this conclusion, until the letter of October 8th, nearly five months afterwards, I having during the interval been detached from duty on board.

But one of the witnesses has expressed to this Court any dissatisfaction. Dr. Duval, Purser Watmough, and Lieutenant Harrison are silent, and Commander Missroon throughout his testimony does not intimate that he was not convinced of the entire propriety of the accounts and settlement. He says that some of the members of the mess thought the transaction warranted their placing me in Coventry, but it does not appear that this happy project was concerted until nearly five months afterwards. There are two small circumstances, in this connection, exhibiting great significance. Commander Missroon at first declined to sign the letter of October 8th, and in the communication of October 16th, omitted all allusion to the mess accounts.

I cannot know what mental reservations were made, but upon the evidence in the case, I submit to the Court that there was a final settlement, and that the investigation was altogether satisfactory.

If it were otherwise, *why was not the account kept open for further explanation and adjustment ; why was the balance struck and paid over to my successor ; and, above all, why was not the intimation of the 8th October given when the affair was recent, and the dissatisfaction, if any existed, strong ?* Why was it reserved until I had been some months detached, and performing the important duties of a civil station on shore ?

Let me here, parenthetically, allude to a singular connection

of minute, but suggestive circumstances, relating to this letter. Captain Watson and Lieutenant Revere were not invited to sign that document, nor were its contents or transmission made known to them except by me. Purser Watmough, although absent from the ship, *had his place reserved according to his rank*, and his handwriting decorates the missive in immediate vicinity to the tardy signature of the executive officer.

It was dated the 8th of October, on which day Dr. Duval was detached, and it then awaited the names of the hesitating first lieutenant and the absent purser.

Do not these little indications denote a foregone conclusion? But that there was, in truth, a final and complete settlement can admit of no possible doubt; nor can it be questioned that whether regarded as satisfactory or not, it ought to have been so held.

- You have the very corpus of the fact, visibly and palpably before you, with all its teeming evidence of items, explanations vouchers, and arithmetic. It is not only before you, but it has been open to all inspection for upwards of a year, and no mistake of omission or inaccuracy has been attempted to be pointed out. It stands unassailed and unassailable; and we know that my accusers have carefully scanned the publication which includes its facts and figures. Need I consume the time of the Court by attempting to restate its data, its computations and result.

My accounts, identified as to every sheet and every voucher, not only by Captain Watson, who had them in his custody for a long time, but also by Dr. Duval, who, upon examination, admitted he had seen them on the mess table, are before the Court. They defy scrutiny. They show every dollar received, every cent accounted for, and the balance paid over to my successor.

If the mess, or any member of it, were not content, it shows their injustice, not my dishonesty.

But as I have heretofore and elsewhere declared, I am not content with vindicating myself from the charge of dishonesty, but I desire to say a few words in reference to the allegation

of "culpable neglect." My account shows that my caterership commenced on 18th March, and continued to 31st May, 1846, a period of seventy-four days. The mess consisted of nine officers, a steward, cook, and four or five servants. The amount received by me was \$458, of which was expended \$455.55. There was an amount passed to credit of the mess for ward-room servants' rations, amounting to about \$66.25; making the actual outlay of the mess \$389.30; being \$17.53 per month for each officer during the entire period. While at Mazatlan, fifteen days, the marketing was \$64.06, with more or less company every day. But as the ship had to prepare for a forty days' voyage (it having been announced four days before that the ship was in all probability going to Puget Sound, under sealed orders), provision had to be made accordingly, and hence the bills contracted amounting to \$108.75, "John Stapp" and "Brig Sirius," in addition to the "*items*" enumerated in the account.

We arrived at Monterey on 22d April.

Now the whole amount of money received by the caterer, as shown by both statements, and never disputed, was,.....	\$458 00
Deduct amount returned unexpended	2 50
Leaves the sum of	455 50
Deduct amount expended as per acc't at Mazatlan.....	276 81
	<hr/>
Leaves the balance of	\$178 69

expended at Monterey, and of which expenditure no complaint has been made. That a proper economy was maintained in my expenditures, may be seen by comparing them with the outlays by Mr. Missroon, who had acted as caterer for five days during my absence.

The acc't shows that he expended for marketing for five days \$	5 12½
By deducting the amount of the purveyor's bills.....	138 00
From the whole amount expended	178 69
Leaves for marketing thirty-nine days at Monterey.....	40 69
Missroon's expenditure was therefore per day	1 02½
While mine averaged for thirty-nine days.....	1 02

But the chief imputation which seems now to be relied upon, in connection with the cruise of the "Portsmouth," as far as I can discover from the course of examination, appears to be the disputed question of duty and of honor in reference to my mode of receiving the allegations made against me in 1846, whether they be considered true or false.

The estimate of this matter must depend upon the true bearing and proper relation of a very few admitted facts.

Whatever suspicions may have been entertained at the time of the settlement of the mess accounts, it is very certain, both from the distinct statement of Lieut. Harrison, and the equally explicit admission of Commander Missroon, that until the letter of Oct. 8th, 1846, there was nothing upon which I could base a demand for investigation. The mess account had been fully and satisfactorily adjusted, the balance paid over, and no tangible difficulty remained open. Admitting, for the purpose of the argument, the existence of coldness and reserve upon the part of my messmates, it was not to be expected that I would complain to the captain of that, or ask a judicial investigation of what had just been satisfactorily adjusted by a private settlement with the parties concerned. Further, how was I to surmise that the precedent matters, which had never been alluded to by the mess, to my knowledge, were rankling in their bosoms to my disadvantage, until the manifesto of October 8th.

Lieut. Harrison says that communication was expressly intended, as far as he was concerned, to force me to *vindicate*, or acquit myself of the charges.

The material question is, what is the intrinsic character of this paper? Whatever might be the motives from which it emanated, what purpose did it intend to accomplish? Commander Missroon says it was to place me in "Coventry," although I had some time previously left the ship and the mess, but still contributing my share of the expense, and notwithstanding Commander Missroon says he did not expect that I would ever return to the "Portsmouth." There seems an

apparent inconsistency between the unquestionable facts and the alleged motives and object. But the material point is this: it was not intended to force me into a demand for an investigation.

This is apparent upon the face of the letter. It was a private communication, declaring a private object, namely, that as we were no longer members of the same mess, or associated in service, they desired to meet me, thenceforward, as a stranger. If I had quietly pocketed that communication and rested content with their desire "not to march through Coventry" with me, I presume the matter might quietly have subsided into utter oblivion. Their "feelings" would have been satisfied, and the ship and the service might have continued "disgraced."

Their communication had no view whatever to an investigation, nor was it contrived for the purpose of forcing me to such a course. It had a personal bearing only; and Commander Missroon at first declined to sign it, upon the ground that it was not likely I would return to the ship, and it would therefore be better to let the matter drop. When, however, I took the unexpected course of submitting this communication to my commander, the executive officer admits that his reply was *drawn* from him; that he was forced into the position of tendering his "immediate readiness" to prefer charges. I had demanded an investigation before the commander of the ship—a Court of Inquiry or a Court Martial. My official accuser designated the Tribunal before which he held himself ready to appear—and that was a Court Martial. There was not, at any time or from any quarter, a suggestion as to a Court of Inquiry, except from myself. Can there be any doubt as to our relative positions? Accusations had become known to me unofficially; I had given them an official shape and direction; I met them with the "most positive denial of any foundation in fact," and demanded that they "be proved or withdrawn." I asked in most distinct terms for an investigation; stated that I would "await patiently the time" when I could meet the charges in

either of the modes of trial indicated ; and in the subsequent communication to Captain Montgomery I expressed the trust that I would "be yet able to make good my defence." The mode could not be mistaken, as I had in the preceding sentence of the same letter positively declined any further explanation to my accusers.

No candid and unprejudiced person can read my communications to Captain Montgomery, and come to the conclusion that I omitted anything I could do, or ought to have done. Indeed, I am at a loss to conjecture what more was possible, unless I had drawn up the charges and specifications against myself, and tendered it to the executive officer for his signature ; or had drafted the order for convening a court-martial, and commanded the commodore to sign and issue it.

But the turn which is now given to this matter is that I failed to *insist* upon an investigation. Commander Missroon seems to admit that I promptly and properly met the imputation at the time. What, then, occurred to alter the relative position of the parties ? How could I *insist* upon an investigation ? By repeating my request ? That would have been a "ridiculous excess," for my demand was continuously in the hands of my commander, and so remained until near the termination of the cruise. Every day, every hour that it remained in his possession, it repeated my request for an investigation. It was a constant and unceasing demand until it returned into my own possession.

But there was a Court Martial competent to my trial convened on board the Portsmouth in 1847. My letter was still preferring its original request.

Was I an offender, and suspected of transgression against the provisions of the Naval Code ? My sole duty was to *submit* to trial—my position was passive. But upon my accusers the law had imposed an active and an urgent obligation. They were positively enjoined to use their "utmost exertions" to bring me to punishment under a discretionary penalty for neglect.

But had the executive officer redeemed his pledge of "immediate readiness" to prefer charges, or had he, at any time, performed his duty of exhibiting them "in writing to the proper officer," in order that an application for a court-martial might be made? "Immediate readiness" to prefer charges is altogether different both in its nature and its consequences from their actual exhibition.

Whatever looseness of military practice may prevail in the naval service, however incorrect may be the prevailing impressions of relative duty, the question is, in legal estimation, entirely free from doubt. The code of rules for the government of the navy distinctly points out when and how charges are to be exhibited, but there is no mode indicated, or to be inferred, how the accused party is to INSIST upon an investigation.

The most extraordinary portion of this singular doctrine is the consequence which inevitably flows from its application to practice. Unless the offender, actual or supposed, *insists* upon an investigation, he is not, under this theory, to be brought to trial; whence it follows that the sanction of the law is not obligatory or effective, unless brought into action by the will and option of the offender. The conclusion and the principle are equally preposterous.

I will submit one further suggestion in relation to this matter. I know not that it is either an advantage or a boast in an officer, or a man, to be "sudden and quick in quarrel." This, as well as to be "bearded like a pard," may sometimes assume the appearance of ferocious daring. But there have been quiet spirits who have sought and won reputation, "even at the cannon's mouth," without these outside manifestations.

Nor can I discover logic or reason in meeting accusations of a grave character with that fiery and explosive "*resentment*" which my enemies think I ought to have exhibited.

It seemed to me in 1846, as it seems to me now, after ten added years of thought, action, and experience, that the course indicated by my judgment then, patiently to await the time and opportunity of justification, has more of true propriety, than

the mode apparently indicated by my accusers, of challenging the executive officer, who placed himself in the prominent position upon that occasion. Besides, the serious infraction of discipline—which would, perhaps, have accomplished the proposed result—it is not easy to understand how the blood of my adversary could have cleansed my reputation, or mine, however freely shed, have purified me from imputed guilt. As to any personal deficiency of true courage, I might leave it even to my enemies to say whether I was found wanting at the post of honor, and in the hour of danger.

The testimony of Lieutenant Stanley as to the points connected with this matter is highly suggestive, and may prompt the Court to considerations, which I cannot discuss without rendering myself obnoxious to the imputation of egotism.

The question in regard to the goods shipped in the "John G. Costar," is a question of intention, not of fact.

If it were to be regarded as a mere matter of fact, I might say, and rely on the assertion, that there was no proof made by the government that any goods were shipped or landed by the "Costar" at San Francisco. The same statement is true as to the concomitant fact of intention. The government witnesses have not stated a single circumstance from which an inference as to the importation or the motive connected with it could legally be drawn. I might, therefore, have referred you to your record, and contented myself with the declaration that there was no proof to sustain the allegation. The sole testimony which relates to this matter—for Dr. Mitchell's statement was shown by the cross-examination to be inadmissible—is that of Lieutenant Simms. This consists entirely of my admission, which must be taken as an entirety, and shows the use intended as well as the fact of importation and entry. Indeed, I might have taken still stronger grounds, and pointing to the fact that the government having proved the intention with the fact, had negatived the whole imputation. But, earnestly desiring to endeavor to clear up a transaction which I know to be not only blameless but praiseworthy, I have myself

brought to the notice of the Court all the substantial testimony relating to this point. I am grateful that after the long lapse of time I am still able to establish facts which lead to direct and inevitable conclusion.

Permit me to advert, for one moment, to the varying phases of this imputation. At first, and for a long time, it was charged that I had *smuggled* these goods. There was also a variation of the slander, which charged that I had used the "Ewing" to convey them. Next came the further addition that I had employed the vessel in trading along the coast. How aptly does this story illustrate the words we hear so frequently, taken from the Classic Poet's description of Rumour, "*vires acquirit eundo.*"

The two-fold allegation of "smuggling," magnified into the indefinite plurality of "some cases," and "trading along the western coast," formed one of the admitted grounds of my dismissal from the service.

When the matter had undergone some semblance of investigation, it was transferred into the new shape of a misrepresentation to the Collector at San Francisco, for the purpose of getting through, free of duty, goods really intended for purposes of private speculation.

This variable character of the imputation—like all the other slanders let loose against me, whenever the cry of "mad dog" has been raised—of itself demonstrates the unsubstantial foundation upon which it, and all, rest.

Let me now, by the simple process of weaving the facts proved in this investigation into a brief narration, show the whole truth and intention of the purchase of this clothing.

When we arrived at Valparaiso, having previously been unable, as the receipt of only *linen* articles at Rio shows, to procure supplies of clothing suitable for the service of surveying the coast of California and Oregon, it was found that there was no government "slops" at that port, and further, that there was no storeship in the Pacific.

The clothing shipped at New York did not—as shown by

the testimony of Mr. Bingham—include those articles which were especially desirable for the exposure of surveying operations—namely, thick over-coats, and heavy double-soled shoes.

I therefore purchased from the naval store-keeper, who had imported them as samples, the invoice of clothing shipped in the "Costar," which was precisely of the right description. The distinct and sole purpose of this investment was to enable the crew of the "Ewing," and "Edith," or such other vessel as might be detailed, to procure articles so necessary to their comfort, and the prosecution of the contemplated work.

It appears to the Court, from the Testimony of Professor Bache, that it was the well understood arrangement that I was to have the command of the "Edith," or such other vessel as might be associated with the Ewing in the intended survey. Should this portion of the contemplated operations fail, I was to be detached and return home; and in no event was I to serve in the merely subordinate capacity of executive officer of the "Ewing."

The state of things which occurred in California has become matter of History. The joint operations of the Topographic and Hydrographic parties were entirely suspended through the desertions induced by that extraordinary rage for gold, which, like the old crusading spirit, pervaded, with uncontrolled madness, all ranks and conditions of men.

The further prosecution of the survey as arranged became impossible, and was for the time abandoned.

It was then that the indomitable spirit of McArthur suggested the effort, under every possible difficulty, to accomplish the survey of the Columbia River and reconnoissance of the coast. For this work I was a volunteer. Its results are known to the Department and the country.

I quote the remarks of Professor Bache, in his eulogy upon McArthur, not for its allusion to my services, but for a purpose which the Court will understand and appreciate.

"The work which he accomplished will live for ever! Surrounded by circumstances the most difficult perhaps which

ever tried the constancy, the judgment, the resources of any hydrographer, he vanquished circumstances. His reconnoissance of the western coast, from Monterey to Columbia River, and his preliminary surveys there, were made in spite of desertion and even mutiny—in despite of the inadequency of means to meet the truly extraordinary circumstances of the country. Happy that in his officers he had friends devoted to him and to their duties—*especially happy in the officer next to him in the responsibilities of the work.*”

This, however, was the labor of the ensuing spring. In the meantime, the original purpose had entirely failed. The “Edith” had been lost, and could not therefore be given over to us, and the steamer “Jefferson” sent to supply her intended place, subsequently shared the same fate.

Under these circumstances, all of which occurred, or were developed, upon the arrival of the Ewing at San Francisco, and before Lieutenant McArthur, about a month afterwards, re-assumed the command, the object for which the clothing had been purchased at Valparaiso necessarily fell through, with the enforced abandonment of the original plan of operations. The clothing (one suit per man only) was upon my hands at continual expense, and was ordered to be sold as rapidly as was practicable.

I now desire the Court to note these significant facts.

First. I announced to Mr. Bingham, when the goods were about to be received, that they had been purchased for the use of the crew of the “Ewing.” I need scarcely add that I had also in view the vessel I was myself destined to command at the time of the purchase. I also communicated the same intention to Mr. Simms when I told him I had purchased and shipped the goods. Whether this statement was made at Valparaiso or San Francisco, or on the voyage, does not appear. Why I should have mentioned the matter at all, if I had any sinister motive in the purchase, is beyond conjecture.

What is the legal effect of the announcement of the intention and the act thus coupled together. The declaration

cannot be severed, and part of it used against me, and the residue discarded. It must stand as an entirety, and produce a whole and not a divided result. This contemporaneous statement of intention is not only competent legal evidence, but, in the absence of all opposing testimony, is conclusive as to the matter declared.

Whenever a particular act is preferred or announced with which a declared intention is connected, the "declaration"—I use the words of a distinguished writer upon the law of evidence—"made at the time of the transaction, and expressive of its character, motive, or object, are regarded as 'verbal acts indicating a present purpose and intention,' and are therefore admitted in proof, *like any other material facts*. They are parts of the *res gestæ*."—(GREENLEAF.)

I claim, therefore, that my declared intention shall be received as the expression of that truth, which is the very heart of this matter.

Again, Mr. Bingham states that these goods were received as from a stranger; were accounted for in the same way; that all proper charges were made against them, including commissions at the highest usual rate. Had they been intended for speculation, I would have consigned them to the firm, and placed them among the joint stock and to the joint account.

Further, the fact that portions, no matter now inconsiderable, of this clothing were disposed of to some of the crew of the "Ewing," at invoice prices, or for less than the residue was afterwards sold, is a fact of high significance. It is reconcilable with no other hypothesis than that these goods were truly intended for the purpose I have uniformly declared them to have been purchased for.

I submit that the circumstances of this case might well justify the collector in not exacting the duty, and if there has not been a very exact discharge of his duties under the revenue law of the United States, it will be remembered that this transaction took place before California was admitted into the Union,

and before our revenue laws had been formally put in operation in the country, and while the collector was discharging his functions under a mere military appointment. It will also be remembered that during this period, to wit, from the Conquest of California to the 13th of November, 1849, when James Collier, Esq., the first collector appointed under constitutional provision, arrived at San Francisco, it was a matter of grave doubt whether, under the mere military authority of the officers of the army and navy, any duties were at all collectable. At the December term, 1853, the Supreme Court of the United States, after a very able discussion, decided this case in favor of the duties. In the introductory part of the decision the Court say: "It seems, from the institution of the suit until now, to have been conducted with the wish on the part of the United States to give to the plaintiffs every opportunity to establish their claim judicially if that could be done, and with a desire on its part to obtain from this Court a decision as to what are the rights of the United States in respect to tonnage and import duties in such a conjuncture as that was, when California was ceded by treaty to the United States, before Congress had authorized such duties to be collected there by a special act."

I need scarcely refer to the testimony of Mr. Rhind, and the letter of Lieutenant Simms, which effectually dispose of the other branches of this imputation.

I now present this proposition to the Court, and I beg them to ponder upon its deep significance. It is applicable to each and every of the allegations which have been made to my disparagement: Do not the exaggerated and unseasoned terms in which the imputations against me have been uniformly announced, intrinsically denote a slanderous and malicious origin?

If the "transfer" of five shirts to Mr. Delazon Smith—not for the convenience of the "party of the first part," as was the case with most of the other "transfers," but to "supply the ripe wants of a friend,"—was a matter, in its own nature and

bearing, disgraceful to me and derogatory to the service, why dress it up in such pomp of circumlocution, profuse as the ruffles with which such "articles" were in former times richly decorated, and magnify it into a "stock of clothing," brought to sea for peddling purposes; and, by mere force of imagination, convert my state-room into a "huckster's shop," fitted up for the express purpose of retailing the *et ceteras* which are made to appear quite as important as those so gravely and wisely commented upon by that legal apostle my Lord Coke?

Why stigmatize the simple and easily understood charge of disobedience of an order, with the extravagant paraphrase of "*speculating* upon a private library, and *meanly* soliciting subscriptions of money," grandiloquently lugging in a "public functionary?"

Without further repetition, the Court will readily remember the equally brilliant but changeable colors, with which each and every of the other "allegations" has been bedaubed, until their intrinsic character has been effectually concealed by the false glare, and bewildering glitter of their outside covering.

If I refer to the little occurrence of seventeen years ago, from which it was supposed some imputation might be derived, it is only for the purpose of showing with what avidity and diligence the minutest matters have been scrutinized and brought together to pile up the pyramid of accusation. Commander Stoddard has been called upon to detail the circumstances of a mess affair in which I am supposed to have indulged in a little "sharp trading," not on my own account but for the benefit of the mess. The transaction was simply the payment of a mess account to a tradesman, in the depreciated currency of the day, the difference between it and specie value having been credited to the mess. There is, however, pregnant significance in the fact that, although unpopular at first on board the "Consort," Commander Stoddard declares, "when we separated, Mr. Bartlett was much better liked than when he joined us."

Lieut. Stanley was also cross-examined as to the affair of the "Consort," and as I feel satisfied that there is nothing in it to

create a "painful impression" upon the mind of the Court, I leave it upon the testimony, without a word of further comment, except to say that he proves that it was satisfactorily settled, at the time, to my honor! and that the complainant admitted that I did for the mess what everybody else did who paid him for his supplies.

Need I attempt any exposition, in addition to what is so conclusively exhibited by the record, in relation to the clothing sent from the "Ewing," in October or November, 1849? It would have been enough for the perfect accomplishment of my own vindication to have shown, as was done beyond doubt or cavil, that I had nothing whatever to do with the transaction. But the testimony of Lieut. Gibson, given under an erroneous view, and very imperfect impressions of the true facts, seemed to indicate something of complicity between Lieut. McArthur and myself. When I produced before you, from the statement of Mr. Bingham, the proof, corroborated by the testimony of Lieut. Gibson, of the real parties, I had done enough for my own justification—but I should not have been content with mere self-exoneration. The memory of a dear and gallant comrade was nearly involved, and I could not rest satisfied without his vindication, which has been triumphantly accomplished. To those who knew the strict integrity, the elevated tone, and chivalrous bearing of Wm. P. McArthur, no justification was required. The old Greeks expressed a grand philosophy in their beautiful apophthegm, "Let no one be called happy till his death;" and McArthur was happy in the unsullied termination of a life, passed like that of the type of knightly honor, without fear and without reproach.

! The only remaining matters of imputation which require extended notice, are the allegations connected with the settlement of my accounts of expenses, as special agent of the Treasury Department in Paris.

I say the *the allegations connected with these accounts*, because there is no question open in reference to the accounts themselves. They have been finally settled with the accounting

officers, and you have the statements of Mr. Anderson, the Commissioner of Customs, and of Major Smith, the first Auditor, as to the character and proper effect of the settlement.

Both these gentlemen unite in the view that there was nothing in these accounts in any sense discreditable, nor, to use the language of the latter, "anything that in the slightest degree tended to impugn your (my) personal or official honor."

The baseless imputations and bold mis-statements connected with this settlement do not arise from the items or aggregate of the account, but from the extraordinary misconceptions which have been engrafted upon them. These misconceptions and mis-statements constituted the chief pretext for the action of the Navy Board in my particular case. When, therefore, they became the prominent subject of examination before the Naval Committee of the Senate, it was necessary that I should carefully and elaborately present the facts and documents necessary to explain minutely the whole subject matter of these accounts and their connected circumstances. That Committee made a full and complete scrutiny of the whole matter upon all the evidence connected with the transactions, *and upon far stronger allegations and more injurious imputations against me*, than are now before this Court; and although the Committee did not do me the simple justice of announcing my exculpation, they made as close an approach to it as could have been expected. The Report states as follows: "It is admitted that, so far as intelligence, physical capacity, temperate habits, a fair degree of professional acquirement and skill, and attention to duty are concerned, Mr. Bartlett was, at the time of his being stricken from the rolls of the Navy, an efficient officer, and, if free from just imputations of moral delinquency, should have been retained on the active list." The Committee then proceed to set forth that, although these investigations "took a somewhat wider range," they had "*decided to confine themselves to three distinct charges.*"

These *three* relate to the same matters now before this Court—the shawl, the landing of goods at San Francisco, and the mess-

accounts ; but there is no allusion whatever to the Treasury-accounts, which, by inspection of the minutes of the Committee, will be found to constitute the subject of the “wider range” of the investigation.

The Committee then proceed to report the evidence against me relating to the three matters designated, but the report merely submits the whole question to the consideration of the Senate, without any expression of opinion whatever. This is the only construction of which the report is susceptible, and this view is enforced by the remarks of Mr. Bell, of Tennessee, by whom the report was submitted, which will be found reported in the Congressional Globe, part III., 1st Sess. 34th Congress, 1855-6, at page 2232.

The entire absence in the report of all allusion to the matter of the Treasury accounts, justifies my conclusion that the Committee found in that matter no ground whatever for “just imputation of moral delinquency.”

I had supposed that after the investigation before the Senate Committee this subject was at rest, but as the matter is now revived before this Court, I will submit a very few suggestions in regard to it.

The evidence offered on the part of the government as the elements of judgment, are the letter of instructions of the Treasury Department, under date of June 16th, 1852, the order of reference of the Secretary to the Light-House Board, of 30th September, 1854, and the consequent report of their preliminary examination, dated November 15th, 1854, together with the statements of accounts and accompanying vouchers and explanations, and the testimony of Commander Thornton A. Jenkins.

The decision of the Court upon the request preferred to the Judge Advocate, for the production of the correspondence between the Light-House Board and myself, leaves me no choice as to the extent of the discussion upon this point. I am obliged to rely upon the facts and documents which the government has produced against me, as all my testimony

is included in that which has been considered by the Court as unnecessary ; although, to be intelligible, I will be obliged to make some reference to documents remaining in the public archives.

I will trust that, upon a fair consideration of this ex-parte view of the question, *I am risking little in regard to its determination.*

The letter of instruction shows the character of the service devolved upon me, but not its extent or duration. The period of my residence in Paris may be inferred from the vouchers. It appears, then, that I submitted a claim to the accounting-officer of the Treasury for expenses amounting in the gross to \$4,011.70. This amount includes everything claimed for expenses in the United States, previous to sailing, passage to and from France through England, and delay in that country for purposes connected with my mission, and my personal and office expenses in Paris, covering a period of twenty-seven months.

It is proper distinctly to state the ground which I assumed in reference to my allowance of expenses. This will appear, consistently, from every communication I submitted to the department.

I had confessedly expended more than, under the circumstances, I could ask to have reimbursed. My expenses had far exceeded the maximum amount of commissions upon actual disbursements. This resulted from the un-anticipated prolongation of my residence in Paris, growing out of the tardiness of action of the Treasury Department, as to certain orders, as exhibited by the correspondence, the inevitable delay upon the part of the contractors, and the large increase of apparatus subsequently determined upon.

In looking at the clause of my instructions relating to my expenses, I saw that its grammatical construction referred the maximum per centage to the personal expenses as contra-distinguished from the specific payment of passage money and cost of travel. I was advised that this was a fair construction of its

legal import, and that if an agreement with the government be subject to two constructions, the courts have determined that that construction should be adopted most favorable to the officer. But whatever were my legal rights, I knew that the equity of my claim required a liberal interpretation of the contract. Its understood conditions had been varied by the department. I had remained much longer abroad, and had rendered far greater and more valuable services than had originally been contemplated. Except for the change effected by the act of Congress in the establishment of the Light-House Board, and the mode in which the payments were made, I should have been equally entitled to three per cent. upon the expenditures for the *fifty-five* additional illuminators. I had much more trouble as to those than as to the original *eight*. I was under far greater responsibility, as I alone inspected, tested and certified the work. The apparatus under the first contracts was tested by the superintending engineer of the French administration, as well as myself. But I never claimed anything for these services. I referred to them as offering strong *equitable* considerations for a fair reimbursement of my actual expenses, and I based my claim upon this equitable view. I had, in fact, disbursed the sum of \$9,378.38, for the "sand key apparatus," afterwards Hatteras light, for which I have never been allowed any per centage, although the amount was formally charged against me, under my bond, in the Treasury department.

By my account heretofore presented, it will be seen that I claimed for my personal disbursements.....	\$4,011 00
Upon the auditing of this account, with the vouchers to sustain the several items of charge, there was allowed the sum as properly charged and vouched.....	3,752 18
<i>So that the whole amount disallowed or suspended by the department as unnecessary expenses was but.....</i>	<i>258 80</i>
As, however, it was decided that my maximum allowance could not exceed 3 per cent. on the "expenditure" of \$90,413 90, I have been paid only the sum of.....	2,712 42

The sum of \$258.80 which was disallowed, consisted, principally, as shown by the evidence of Mr. Anderson, of an item for "parlor, at Fenton's Hotel, not deemed necessary." Also the item for "transportation of extra baggage, medical attendance, and medicines." The charge for "extra baggage," is, as every transatlantic traveller knows, necessarily incident even to a single "American trunk," of ordinary size. The item for "recovering lost baggage," also disallowed, was the actual expense of recovering the trunk, accidentally lost, which *contained all my vouchers for disbursements.*

I have stated the objectionable items, that it might be clearly seen they were of such a character, whether admitted or not, as to reflect no discredit in incurring them.

It will be perceived by the terms of my letter of instructions, which has been referred to as the agreement by which my compensation was determined, no specific number of apparatus is mentioned. It was, however, understood at the time, that I should be called on to superintend those only which were necessary for the Pacific coast, and this, it was presumed, could be accomplished in about twelve months. Having in view, therefore, the time to be occupied, and the probable amount of the expenditure, the amount of three per cent. on that amount was regarded as a fair equivalent for my personal expenses for one year. Had I remained abroad but the period contemplated, which period was the basis of the agreement for compensation, this amount would have exceeded the expenses, and could not have been claimed. But instead of superintending alone the lenses for the Pacific coast, I was subsequently required to superintend the construction of fifty-five illuminators for the Atlantic; and instead of remaining one year in Paris, as was contemplated by the agreement, I was detained there upwards of twenty-six months. Now, it is evident that the compensation was based, not on skill in the discharge of my functions, but solely on the time to be applied. The compensation was for expenses; and these were in exact proportion to the time employed. If the contract had, in express terms,

stated that I was to remain in Paris for twelve months, and for the expenses of that period, I was to be allowed the sum of \$2,000, and subsequently I had been required to remain twelve months longer, without any express stipulation as to the compensation, is there any doubt that the law would have raised an implied contract on the part of my employer, to pay me a sum for the additional period equal to that for my original employment? Testing my case by this admitted principle of law, my compensation would far exceed the whole amount originally claimed by me. It is said, however, that the letter of instructions limits the allowance to a per centage on the "expenditures" made by me, and as the "expenditures" for the fifty-five illuminators were not made by me, I have no right to any remuneration for my extra time, and extra expenses. Admitting the technical force of the word "expenditures" to be as is contended for, the conclusion by no means follows: the most that could be urged would be a deduction from my extra remuneration of such sum as would be equitably regarded as the equivalent for the trouble and responsibility in receiving and paying out the money; but the fact would still stand boldly out, that, by orders of the Department, I had incurred greater expenses than had been contemplated by the parties when the agreement was entered into. This proposition seems to me so plain, that anything but its mere statement would only seem to confuse it.

But admitting that my remuneration was limited to the technical rule of "expenditures," it will be remembered that I have heretofore shown, that in addition to the "expenditures" for the Pacific of \$90,413.90, I also expended for Hatteras light \$9,378.38. By this technical rule, therefore, I am entitled to a further allowance, equal to three per cent. on this sum (\$281.34), which has not been paid me, and which sum exceeds the disallowances.

But the imputations now relied upon seem to be restricted within extremely small compass.

Commander Thornton A. Jenkins was desired to designate

the objectionable items ; that is, such as, *in his opinion*, were to be so considered. He pointed out the accounts for rent of apartments, and "menials engaged." (There was but one employed as a messenger, and the occasional services of a *frotteur*, a "menial" peculiar to France, whose special business it was to wax the wooden, uncarpeted floor of the chamber occupied as both office and dining-room.)

He also indicated the items for parlor, at Fenton's Hotel, London, and the medical bill incurred at Paris.

When Commander Jenkins came to explain more particularly his views, it appeared that his objection applied not to the charges themselves—as to rent and servants, candles, fuel, etc.—but to the manner in which the vouchers were taken. He considered that a *suspicion* attached to the fact that they seemed to have been permitted to run for two years without settlement. That is because I found it convenient to take a receipt at the end of a running account, which however had been settled monthly, in order to have one voucher instead of many, my account is, in the estimation of Commander Jenkins, *suspicious!*

It would waste the time of the Court, and exhaust my patience to comment upon such trivial and puerile suggestions.

I leave these, and the carping at "extra baggage," and "expense of recovering lost baggage," with a single remark. It is not pretended that these, and the "charge for parlor," were not *paid* by me. I presume it will scarcely be denounced as discreditable to have had a parlor in which to receive my guests instead of my bed-chamber. I venture to hope that it was not disgraceful to go in search of my missing effects and valuable vouchers ; and I feel quite confident that I incurred no just odium in paying what the railroad companies undertook to charge for baggage above the permitted weight. I could scarcely be expected, either as special agent or officer of the Navy, to travel with a carpet-bag. But if these items were properly and necessarily incurred, what impropriety can suggest

itself to the most suspicious imagination, from the fact of presenting them to the consideration of the accounting officers, whether allowed or rejected.

I submit to the candid and reflecting, that all the disgrace attaches to a system which places the government in the humiliating position of quibbling about such trifles ; and that the odium ought to be cast on those, who, upon such a foundation, attempt to build up unworthy imputations against one who has faithfully and zealously performed important services, nearly affecting the great commercial interests, and the honor of the country.

But as my accounts have been assailed in these small particulars by the Secretary of the Light House Board, I beg to array upon the other side the very opposite views of the first Auditor, the Commissioner of Customs (Comptroller), and the Superintendent of the Coast Survey—member of Light House Board—to whom I may, by fair inference, add the Naval Committee of the Senate.

The introduction of the charges connected with these Treasury accounts before the Navy Board, as well as every other imputation against me, is to be traced, by his own admission, as extracted from his testimony before the Senate Committee, and placed upon this record, to John S. Miss-
roon !

Bear with me, gentlemen, for a moment, while I advert to our mutual position. You are the Judges—I am the accused. The stake which I have involved in this investigation is large, but your interest is yet greater. It consists in your responsibility. My life—from the earliest period of my naval career, down to that terrible moment when, beneath the burning sun of Africa, gasping for news from home and country, I received the fatal intelligence which wrested the trumpet from my stricken hand—has been laid bare before you. The imputed delinquencies of my heart, the alleged deficiencies of honor and of honesty have been probed, and exposed to your examination.

You are invested with the highest and most solemn prerogative ever conferred upon an earthly tribunal—the determination of moral character, the scrutiny of the relation between man and his Maker, a subject heretofore deemed beyond the scope of human power. You are commissioned to determine not the existence of a fact, but a spiritual condition—a state of moral fitness. It is not, and cannot be, a thing to be determined like ordinary matters connected with the external life and actions of an individual. Yours is a higher and more sacred duty.

To pass upon the physical condition of a man requires but the ordinary perceptions of mere animal life—to ascertain adequacy of professional skill and information demands only superiority of scientific knowledge and practical attainment—to determine those qualities of mind which are necessary to enable one to understand and master the details of duty, requires mere appreciation of intellectual acuteness—but to decide upon that vastly more recondite matter, the possession and influence of principles of action, seems, at first sight, to be almost an usurpation of the attributes of Deity.

The delicate relations between will and action are scarcely of more difficult ascertainment, unless we have broad and strong results to guide us. You would naturally demand, before exercising so vast a prerogative, that acts of unequivocal relation should be distinctly and unerringly established. You would further require that these acts should be of such a character as to require no subtle reasoning to trace their connection, but such as would at once touch the common instincts of mankind.

Even great and startling crime could not always be relied on as the indication of immorality, because it is the continuity, the habit of offending, which vitiates the principles, and impairs the moral sentiment. It is only by definite outward acts that man can judge of the interior motives of his fellows ; and even then his judgment is more than fallible.

But without strong external indications, we cannot ascertain the qualities and characteristics of moral life and action.

Called upon, then, to determine my *moral fitness*, what proof are you to require?—what standard to establish?

You have been told by a distinguished officer of long experience and great intellectual force, that he is utterly at a loss how to determine this new ingredient of professional efficiency.

Ordinarily, every man's standard of morality is merely the ideal of that conscience which has been infused into his bosom to control and regulate his individual actions. But such a test is utterly inapplicable here, because it cannot be converted into a general and equal rule.

The idea of moral fitness in the respective breasts of this Court may or may not accord; but if it should so happen, they cannot impose it as a rule of judgment upon the co-ordinate tribunals established under the same statute. It will not answer to have one law of morality in Court No. 1, another in Court No. 2, and yet a different in Court No. 3.

Where, then, are we to seek the standard? Is it to be found in the varying phases of general morality, in this or that section of the country—in the notions and habits of the generation passing off, or that newly entering upon the stage—to tone itself by the character of the "Trunnions" and "Hatchways" of a by-gone age—to conform to the elevated purity of a McDonough, or the laxer sentiments of a less rigid school—or to be set in unison with some estimated average of the reformed service of the present?

It is easy to understand and determine what *mental fitness* is necessary to enable an officer to acquire sufficient knowledge to discharge the duties of his position.

It is not difficult to conclude what reasonable amount of skill and experience may be included in *professional fitness*; nor are we much at a loss upon the narrower question of physical competency. But the moment we venture to speculate upon the undefined quality newly engrafted upon the regulations of the service, we are launched upon a sea of doubt and difficulty.

How, then, are we to arrive at any legal or correct standard

by which we are to estimate this moral fitness, which the statute requires, but omits to define. It was well said by a distinguished Senator, in the debate upon this very matter, "that questions of morals present no issue either in law or in fact."

It is perfectly certain that no tribunal erected under the Constitution can transcend the limits recognized as beyond the sphere of human government, and trespass upon the delicate relations which exist between conscience and life. Moral fitness, or unfitness, must be *developed in action*, before it can become a subject of cognizance, whatever theory, as to its nature and requirements, we may please arbitrarily to adopt.

This view accords not only with manifest propriety, but also with the spirit of that code to which alone we can resort for analogy or illustration. The act for the better government of the navy enjoins upon all commanders to show a good *example*; to be vigilant in inspecting the *conduct* of all under their command; to guard against and suppress all *immoral practices*, and to correct such as are guilty of them. It also prescribes the punishment of various specified and defined offences in the same general manner, and for similar purposes, as the ordinary criminal codes of the country.

These injunctions and provisions look exclusively to specific *acts*; to morality, not in the abstract, but in the concrete; to life and behavior, and not to opinions or speculative delinquencies.

It follows, therefore, that the question of moral fitness must be determined by *proof of specific facts*, and not by *OPINION of character*.

The question still recurs: by what standard is moral fitness for the naval service to be determined? If there be any legal idea which is naturally included in the phrase, or can be incorporated with its essence, it must necessarily be definite, precise, fixed, both in character and application. The ideal criterion generated by the particular condition of society, or the opinions of varying sects, cannot be resorted to as a legal mea-

sure of nautical morality, because it does not possess the fundamental requisite of a law, that is universality of application as a rule of action. It is as fluctuating and uncertain as the proverbial contrariety of individual opinions. It may conform to the Spartan ideal, which sanctioned the concealed crime, and visited with reprobation only the exposure; or it may assume the rigidity and solemn formality of Puritanism, or the lax and easy virtue of the Cavalier.

Where then shall the officer look for his rule of conduct, which is to be the uniform and equal law of his professional career?

There is nothing to which he can possibly resort, except the code which legislative authority has provided for the government of the service. If his actions come up to the requirement of its provisions, he stands perfect in professional integrity, and there is no inquisitorial power which can look beyond his outward conduct and established habits.

But the question of moral fitness includes a still closer limitation under the Act of Congress establishing the jurisdiction of this Court.

The subject matter of inquiry is the capacity for efficient naval service, which is included in the phrase, "physical, mental, professional, and moral fitness."

As physical fitness does not demand the extreme energy of which the human system is capable—as mental fitness does not require the highest order of intellectual power—as professional fitness may be sufficient without the greatest degree of skill, or the largest amount of experience—so moral fitness is not expected to be *perfect*, either in kind or degree. It must be, in character and extent, exactly what is necessarily demanded for the proper and efficient discharge of the duties of the service.

The reputed author of the phrase, "moral fitness," the Chairman of the Naval Committee of the Senate, who might naturally be supposed to understand its scope and meaning, declared, in the course of the debate upon the motion to strike out these words, that it was an error to suppose "that

this provision will institute any particular searching inquiry into the morals of individuals." He added, "naval officers are not stringent upon this point," and afterwards added, "they are not very stringent construers of what morality should be." There were others, who, with a wiser foresight, predicted the evils which were to grow out of this anomalous addition to the scope of the remedial investigation.

The sound, practical proposition, under the enactment, may be inversely stated in this form: Admitting that the habits of an officer, either constant or occasional, have not been strictly conformable to what we may please to assume as the proper standard of morality, yet the true question is, simply and solely, whether such habits have in fact impaired his general professional efficiency.

For isolated errors and official short-comings, certain specific penalties have been provided. These may have been enforced, or the delinquent may have escaped "unwhipped of justice;" but, in either case, this is foreign to the practical subject of investigation. *The jurisdiction of these Courts extends to particular facts only so far as they illustrate the specific inquiry which has been submitted to their decision, which is the ACTUAL PRESENT CONDITION of the applicant in relation to the four-fold fitness described in the Statute.* Should they attempt to exercise a power to examine into *any matters* except with the single view of assisting their conclusion of the broad question submitted to their decision, they would unquestionably exceed their authority, and usurp a jurisdiction, which belongs exclusively to the ordinary tribunals created for the regulation of the service. Their extraordinary power, although comprehending an extent of inquiry co-extensive as to particulars, with the usual scope of military Courts, is yet directed towards a wholly different end. *It has no relation whatever to the PUNISHMENT of offences,* but is directed wholly and exclusively to the single question of the fitness of the individual for the naval service.

It is therefore submitted as an undeniable position—which must form the basis of all reasoning upon the subject—that

particular delinquencies, specific offences, either of commission or omission, have no bearing upon the office and duty of this Court, except so far as their knowledge of human nature may teach that such short-comings, by continuity of occurrence, or necessary relation of cause and effect, produce, of necessity, a palpable moral impediment, as conclusive in its character as physical disability, to hinder or impede the efficient discharge of duty.

I must beg, even at the risk of tediousness, to submit a few remarks in regard to the character of the allegations against me, and their bearing and effect upon the distinct finding which is to terminate this investigation. That finding must be precise and definite, not a mere report, or recommendation, but a judgment as to the question of fitness in each and every of its four-fold components.

It is not pretended that there is any doubt or difficulty in regard to my fitness for naval service under the first three branches of inquiry; and the contest is confined to what may be justly included under the fourth head of investigation.

The Committee of the Senate concluded that "if free from *just* imputations of moral delinquency," I "should have been retained on the active list."

As that point was not determined against me, and so reported, I might firmly infer that there was nothing brought to their notice to bring them to an adverse opinion.

Broadly as the question is stated in that report, I should be perfectly content to meet it now in all its latitude. But under the jurisdiction conferred upon this Court, there must be necessary limitation to any such vague consideration of the question.

The matter for your determination is my *present* moral fitness, and did the exigency of my case require it, I should boldly claim that even with admitted delinquencies occurring more than ten years ago, with an interim of a life passed in the constant discharge of important duties and valuable services, some of them performed under heavy responsibilities,

and involving the expenditure of large sums of money, I am entitled to call up the evidence of those services, the testimony of ten years of unquestioned integrity, to rebut the presumption arising from even *proved* moral deficiencies—that I am, now, and here, as I stand before you, in that respect, unfit for the service.

But however willing I might be to place my hopes and fate upon the mere decision of the various matters arrayed against me, the duty of this Court will not allow them to disregard so important an element of this investigation. If there were any doubt as to the sufficiency of my attempt, by positive proof, to repel the imputations of former years, that doubt would vanish before the clear evidence of ten years of devoted duty and unassailed reputation. A fundamental principle of the law of evidence, in criminal cases, allows character and good conduct to be weighed against every imputation falling short of full legal proof.

But I take a still higher stand, and I say, that without a scintilla of the positive testimony which I have introduced before this Court, my life, character, and services do, in themselves, disprove the unsustained allegations of my enemies. Why I should have had those enemies, many of whom admit the intermixture in me of many good and valuable qualities, I am at a loss to conjecture. But there is a happy compensation in one statement in which many, originally prejudiced against me, concur, namely, that whenever I became better known, I was better liked.

If Mr. Stanley's conjectures be correct, and that is the key to my alleged unpopularity, all I have to say is, that my course in that respect is still approved by my reason, and no man can question that it is not only sanctioned, but *enjoined* by the regulations of the service.

But while I am thus proudly alluding to the untarnished reputation of my maturer life, I must not forget that even the recent portion of my career has been subjected to a sort of posthumous attack, by imputations attached to matters occurring since I

was killed out of the service. Lieutenant Charles Carroll Simms has appeared before the Court, and declared that he considers me morally unfit for the service for three special reasons. In order that I may not encounter the chances of Lieut. Charles Carroll Simms' repeated denunciation, I give him all the benefit he can derive from his own mode of stating his charges against me. It will be perceived that they relate to very recent matters.

He alleges that I have "made willful misrepresentations of facts." I quote his specifications of this charge from the record, to forestall the possible incredulity which might connect itself with an attempt to state the substance of his testimony. "He stated, in a pamphlet he has published, that I had given a confused statement before the Senate Committee. In the same pamphlet he represents that he employed the schooner 'Ewing' for giving sailing directions to vessels off San Francisco, when he himself told me that he was to go to Bodega, and that he had passengers on board to take up there. He also says, in a letter to me, dated January 19th, 1856, 'that the only articles I had was three large pictures, which hung in the cabin,' when, *in point of fact, he had, besides them, TWO GOLD WATCHES, to my knowledge.*"

I have taken the liberty to italicize the last sentence of the testimony of Lieut. Charles Carroll Simms, in order that it may have that prominence which its importance demands.

Now, the charge which this gentleman makes against me is in terms a grave one, however an unprejudiced mind may regard the extraordinary specifications upon which it rests.

It will be observed, in reference to the first specification, that Lieut. Charles Carroll Simms does not venture to produce the statement made by him before the Senate Committee, in order to convince the Court that I have made a "willful misrepresentation," but assumes that his indignant ipse dixit is plenary evidence of the fact. I venture to differ with Lieut. Charles Carroll Simms upon this point. I venture to suggest to the Court, that inasmuch as the statement in question is legally

before them, they may perhaps come to the same estimate of its contents. I might further intimate to the Court, that the alleged confusion of the statement referred to what Lieut. Simms, in the joint letter signed by himself and Lieut. Gibson, called my "anomalous" position in "living on shore" in the "employment of the golden realities and speculations of California," "making morbid undisciplined imaginations," etc.

It seems to me now, in full view of the indignation of Lieut. Simms, that if the Court will refer to a single passage which I have had placed upon the record for that purpose, they will possibly agree with me, or at all events relieve me from the charge of willful misrepresentation as to this point. That passage is as follows: "Bartlett was in the Navy at this time, apparently attached to schooner Ewing, but held no position on board. Was executive officer, but did not perform the duties nominally attached." How could I be "apparently attached" but hold "no position?" or, indeed, how could I be "apparently attached" at all? And what are the "duties nominally attached" to an "executive officer?" Perhaps Lieut. Simms may better enlighten us after he shall have been "apparently attached" to such a position; but, in the meantime, I submit to the Court that the *confusion* does exist either in Lieut. Simms' statement or my brain; in which latter case I will plead my stultification to disprove the WILLFULNESS of my *misrepresentation*.

I might, perhaps, with some justice, apply this obnoxious epithet, "confused," to the second specification of Lieut. Simms. It is by no means clear that he intends to deny the fact that I did give sailing directions to vessels off San Francisco. If he does, I have only to say that I have proved the literal truth of my statement by Lieut. Gibson; and also that I did take one passenger at least, a member of the joint commission, Lieut. Blunt, to Bodega, which I have established by the testimony of Captain Van Brunt, and until Lieut. Simms shall further enlighten me, I am unable to perceive any conflict between the two facts.

As to the third specification, I presume that even the gravity of the occasion will scarcely redeem the statement of the witness from the inevitable imputation of puerile absurdity. When I used the expression he quotes from my letter, it is scarcely to be supposed that I was giving an inventory of all my personal effects ; for if so, Lieut. Simms might, with equal justice, have convicted me of a still larger misrepresentation, for in addition to the *two watches*, I had also a “*stock*” of clothes, including a highly suspicious number of shirts !

Immediately previous to the conclusion of the testimony, Lieutenant Duer was introduced, and interrogated as to his impression of his own opinions, and the opinions of others entertained fifteen years ago. The only evidence contained in his statement is the evidence of unfairness on the part of the witness, and gross injustice to me. At the close of this protracted inquiry, new allegations, of which I could have no previous suspicion, are suddenly sprung upon me, without, however, one *solitary fact* proved, either to sustain them, or even to denote their origin. Lieutenant Duer's first allegation is, that I failed to secure the respect of either officers or crew. This is, in its very nature, nothing more than the *opinion* of the witness, as he does not pretend to state a single instance in which such a sentiment was developed in action or expression. It is, therefore, merely his opinion of their opinions.

The witness, however, proceeds to state what he seemed to consider causes of such estimation, which he asserts to be reputation, and facts occurring on board, and which latter, in the opinion of the witness, were also sufficient proof of fear, falsehood and hypocrisy.

And what are the facts, or rather what *is* the fact ? for but one is alluded to.

A servant-boy was threatened to be flogged at my instance, and while smarting under the infliction—for it was actually inflicted—made threats of vengeance and exposure against me. The punishment was directed on account of his having smuggled liquor. Lieutenant Duer proceeds to state, and it is the ONLY

FACT he mentions, "*that the boy, when called up, DENIED all that he had said, and the matter dropped.*"

And yet the witness has come before this Court, and detailed his unfounded impressions of the harshest character, based entirely upon the vindictive charges of a drunken negro, retracted by him when sober.

Whether the witness stands self-condemned, it is needless to inquire, but I cannot believe that I am to suffer, even in estimation, by such testimony, which I have no possible opportunity to rebut, and which is connected with matters so remote in time.

I have a remark to make in regard to this and the other allegations against me, which stand in the same category—that matters alleged to have produced strongly unfavorable impressions, *but not officially reported*, deserve no consideration whatever as elements even of an unfavorable impression, much less a condemnatory finding.

If they were of a grave character, the failure to report was a gross dereliction of duty, and he who, by culpable omission, neglects his enjoined obligations, presents himself before a Court with little claim to credit in regard to his *present version* of events which his *past inaction* shows were then held in a very different estimation.

It will be remembered that Lieutenant Duer is one of the witnesses named in the famous cartel of October 16th, 1846, and the "instance" with which his name is connected is stated to have "occurred in the surveying service."

The matter itself is not described in such a way as will enable us to decide upon its identity, except by inference, but it is characterized as placing me "in a worse light than anything charged against him in this letter." The writer in this "instance" failed to avail himself of his usual parade of epithets, for he might have described the transaction as a *crime of blacker dye*, as it depended solely upon the declarations of a drunken negro. It is true he afterwards denied the whole, but it seems to have been considered that to have what they call "allegations" made against me, was quite enough, in the estimation of

my accusers, to brand me with infamy. It made no kind of difference whether they were true or false.

It would be sufficient for my defence upon this point to bring in contrast with the extraordinary testimony of Lieutenant Duer, that of the immediate chief of the survey at the time of the incident in question. Captain Powell's statement and estimate of my character, relating to the same period, and derived from the same service, are before you. I need but refer to them.

The Court could not fail to remark the still more extraordinary contrast—heightened by the juxtaposition of evidence—between the testimony of Lieutenant Duer, who served with me some few months, fifteen years ago, and that of Professor Bache, the distinguished head of the Coast Survey, whose esteem I have the happiness and consolation now to enjoy. His tribute to my character and services is fresh upon your record, a fit conclusion to the labors of this examination. I will leave it to speak in its own trumpet tones against the finding of the Navy Board, and the unsubstantial imputations with which this record is encumbered.

Much stress seems to be placed upon the adverse opinions and inferences expressed by some of the witnesses upon the part of the government. The most singular fact connected with the parade of opinions in the case is the absence of that of the leader of all the attacks upon my character. Commander Missroon, although placing a high estimate upon my professional attainments and mental and physical capacity, has nowhere, throughout his voluminous testimony and explanations, placed upon record, in express terms, his opinion of my moral fitness.

Lieutenant Gibson expressed no adverse estimate, but, on the contrary, the fair inference to be drawn from his evidence is in my favor, as he expressly said he knew of no ground of imputation except the sale of clothing by McArthur to Bingham; and I believe when he knows the simple truth of that transaction, he will regret the unjust suspicions predicated upon imperfect knowledge.

I desire now to place in the even scales of Justice the opposing opinions of the witnesses without one word of comment. On one side we place the sweeping denunciation of Purser Watmough, the milder prejudice of Dr. Duval, the downright depreciation of Lieut. Harrison, and the irate explosion of Lieut. Simms, all told : on the other side, pile up, in rich profusion, the valuable esteem and kindly appreciation of Commodores Lavallette and Crabbe, Captains Montgomery, Powell and Ellison, Watson and Revere, Dr. Chase, Lieutenants Stanley and Forrest, Gov. Rodman M. Price, Alexander Dallas Bache—and, I thank God ! I might have summoned hosts of others, of the best and greatest in every quarter of this broad Union !—but with these, whose names grace my record, need I inquire which side kicks the beam ?

One thing more I would ask the Court particularly to notice—How is it that with avowed enmity and imputed unpopularity always at work against me, *I have never been brought to punishment, or subjected even to a REPRIMAND?* Further, how have I—as I believe I have—uniformly secured the approbation of every superior officer with whom I have at any time served, with a single exception ?—that exception is John S. Missroon !

I have now scrutinized the testimony arrayed against me upon this record. I have endeavored to suggest, and to commend to the reason of the Court, the true legal principles, and sound statutory constructions which should govern their investigation and estimate of the facts.

In the comments which have inevitably presented themselves upon the character of the testimony, and the spirit exhibited by the principal witnesses, I have been actuated by a forbearance and charity which they have never accorded to me.

Their *motives* I have not assailed or exposed. Their bias and their concert are so strongly and prominently exhibited, and so blended with their testimony, as to infect the whole case with the taint of persecution. At the same time, while feeling the keenest sense of agony and wrong, I owe it to my sense of justice to say, that in my belief, the origin and cause of all the

hostility which has been arrayed against me spring from the master-malice of one man, whose malignity has pursued me with unrelenting and vindictive fury. The stone which, eleven years ago, was cast into the bitter waters of strife, has enlarged its ever-widening circles, until it has swelled into the dreadful vortex which has engulfed my reputation and my hopes.

But I trust that I am not deceived in the belief that I begin to feel the influence of the returning surge which is to regurgitate me from the horrors of that dismal and fathomless abyss.

It was one of the chief imputations of 1846, that I was not sufficiently sensitive of the attack upon my character. At least no man can now say, that during the last eighteen months I have not stood behind my hurled gauntlet against all comers. I have challenged the action of the Navy Board, and defied the utmost malice of my enemies, open or unavowed. I have devoted my life and my labors to the redemption of my character from the imputations which have been heaped upon me.

In this final effort I trust that I have been successful. But if, unhappily, I should find myself baffled in this sustaining hope, I will appeal to the popular justice of my country, and still believe that at the great bar of public opinion I shall yet redeem the pledge of 1846, to "make good my defence."

WASHINGTON ALLON BARTLETT.

A D D E N D A .



THE following, from original letters, forming part of Lieutenant Bartlett's defence, and annexed to the record, will speak for the opinions of their authors :

U. S. FLAG SHIP JAMESTOWN,
PORTO GRANDE, Oct. 28d, 1855.

SIR:

I have received your letter of this day's date, containing a copy of a letter from the Hon. Secretary of the Navy to Mrs. Bartlett, in relation to your retirement from the Navy of the U. States. Although I have not received anything official from the Department upon the subject, yet the Hon. Secretary's letter to Mrs. Bartlett, and the reasons set forth by yourself, will, no doubt, justify me in relieving you from further duty on board this ship. In doing so, however, I cannot avoid saying, that I deeply regret the loss of your services. Your gentlemanly and officer-like bearing whilst under my command has uniformly met my warmest approbation.

I am, with great respect,

Your obedient servant,

THOMAS CRABBE,

Commander-in-Chief of the U. S.

Naval Forces, Coast of Africa.

To Lieut. W. A. BARTLETT.

U. S. FLAG SHIP JAMESTOWN,
PORTO GRANDE, (ST. VINCENT'S) *Oct 24th, 1855.*

DEAR SIR :

We entertain too high an appreciation of your character as a gentleman and an officer, and too warm a regard for you as a mess-mate and a friend, to allow you to leave us without saying to you, in the sincerity of our hearts, that we deeply regret that you are about to part from us, and, above all, the cause that takes you away. In the difficult and responsible relation that you have sustained to us as executive officer of the ship, you have ever, whilst discharging your duties with fidelity, borne yourself towards us with the utmost frankness, conciliation, and courtesy. And in the more intimate and kindly relation as a member of the little society that we form amongst ourselves, and which can subsist in harmony only by mutual cultivation of friendly feelings and the practice of friendly offices, you have endeared yourself to us by your uniform amiability of disposition, and by the desire that you have ever evinced to cherish the most cordial intercourse with us all.

We therefore beg to assure you that, in parting from us, you are taking leave of those who will ever remember you with pleasure, and who, whatever fortunes may betide you, will always continue your well wishers and friends.

Ever, very truly,
Yours,

GEORGE CLYMER, Fleet Surgeon, ranking
with Commander.

T. H. PATTERSON, Lieutenant.

EDWARD A. BARNET, Lieutenant.

T. M. TAYLOR, Purser (rank of Commander).

JULIAN MYERS, Lieutenant.

SAMUEL RICHD. SWANN, Ass't Surgeon.

JOHN L. HEYLIN, Commodore's Secretary.

JNO. E. HART, Acting Master and Lieut.

JAS. M. BRADFORD, Acting Lieutenant.

CHAS. W. THOMAS, Chaplain.

U. S. FLAG SHIP "JAMESTOWN," PORTO GRANDE,
ST. VINCENT, *October 23d*, 1855.

DEAR SIR :

In forwarding you the enclosed letter from Commodore Crabbe, relieving you from further duty in this ship, I beg leave to assure you of my deepest regret for the cause that has produced it, and for the interruption of an intercourse and association always confidential, harmonious, and friendly. I shall ever esteem you, in your character, as an officer, and gentleman, and in parting from you, tender you my sincerest wishes, for your restoration to the service, and for your future influence.

Very respectfully, your obedient servant,

JAS. FRANCIS ARMSTRONG,
Lieutenant Commanding.

Lieut. WASH. A. BARTLETT, *U. S. S. "Jamestown."*

U. S. S. JAMESTOWN, PORTO GRANDE,
ST. VINCENT, *October 26th*, 1855.

SIR :

It is with feelings of the most heartfelt sorrow that we address these few lines to you.

You are about to return to your home, and we, as officers, who have taken pleasure in being under your command, cannot think of your leaving us without expressing our thanks for the gentlemanly manner in which we have been treated by you.

Your name will ever live fresh in our memories. Hoping that you may succeed in all your undertakings, we remain,

Yours truly,

WM. COPE, Gunner,
JOHN MCKINLEY, Boatswain,
JOSEPH R. SMITH, Carpenter,

Lieut. WASHINGTON A. BARTLETT, *U. S. Navy.*

U. S. FLAG SHIP JAMESTOWN, PORTO GRANDE,
ST. VINCENT, *Oct. 24th*, 1855.

SIR :

You are about to return to your home. In so doing, the members of the steerage feel it their duty to express to you their deep regret, and their sincere gratitude for the extreme kindness with which you have universally treated us, during the time we have had the pleasure of being under your command. You may be assured, that after your leaving us, you will ever be cherished in our memory, with feelings of the highest regard and esteem, in your character as an officer and gentleman.

Sir, we bid you, with sorrow, a hearty farewell; with many wishes for your future welfare and happiness, believe us,

Very respectfully,

Your obedient servants,

A. R. CONKLIN, M. Mate.

C. W. LAWRENCE, M. Mate.

VAL. HALL VOORHEES, M. Mate.

O. A. HENCKEL, M. Mate.

H. B. JOHNSON, Capt.'s Clerk.

To Lieut. W. A. BARTLETT, *U. S. Navy*.

U. S. SHIP JAMESTOWN, OFF PORTO GRANDE,
29th October, 1855.

SIR :

In the discharge of my duties as sailmaker of this ship, I have learned much of the disposition of the crew, and the feeling they have toward you, particularly during the time you have served as executive officer, and beg leave to state, that they, being aware of your intended departure for the States, have expressed a wish to me, and through me, to testify their regret that you have occasion to leave them prior to the end of the cruise.

Since I have been attached to the Navy, I have seen other officers who have gained the esteem of their ship's company, but never to such a degree as you have, from the hardy sons of Neptune com-

prising this ship's crew. Your capabilities as a Lieutenant, and your bearing as an officer and a gentleman, have won their admiration, and they say they cannot let you depart without this token of their gratitude and their esteem.

Very respectfully,

Yours, &c.,

WM. N. MAULL, Sailmaker.

Approved.

W. PLUMMER, Captain of Forecastle.
 JAMES YOUNG, " Fore-top.
 HENRY P. GRACE, " Main-top.
 CHAS. STEWART, " Mizzen-top.
 THOS. W. MACREADY, " Afterguard.
 THOMAS KITCHEN, " Hold.
 DAVID ESBECK, Signal Quartermaster.
 GEORGE POTTER, Boatswain's-mate.
 WILLIAM THOMAS, Sailmaker's-mate.
 JOHN H. LOVELESS, Carpenter's-mate.
 DANIEL HUSSEY, Gunner's-mate.
 JOHN D. GORMAN, Master at Arms.
 CHAS. SWANSON, Yeoman.
 JAMES McFARLAND, Cooper.

P. S.—They all wish to sign and approve my remarks, but as it would occupy too large a space, and too much time, I could but permit one from each part of the ship, who bears testimony as to the sentiments of the gangs to which they are attached.

W. N. M.

HEMPSTEAD, LONG ISLAND, *January 17th, 1856.*

DEAR SIR :

In reply to your request, that I would state my opinion of your efficiency as an officer, and your deportment as a gentleman, during our recent association on board the "Jamestown," where you served under my command. I, with great pleasure say, that in every particular, as a zealous and capable officer, and a well-in-

formed, intelligent gentleman, I regarded you as most exemplary. Commodore Crabbe frequently expressed himself to me in very warm terms of you, as a highly accomplished officer, and like expressions were made from all your messmates in the ward-room, showing a uniformity of opinion throughout the officers of the ship.

Sincerely trusting that the error which seems to have been made in your case may speedily be rectified, and that you may be honorably restored to your position in the navy.

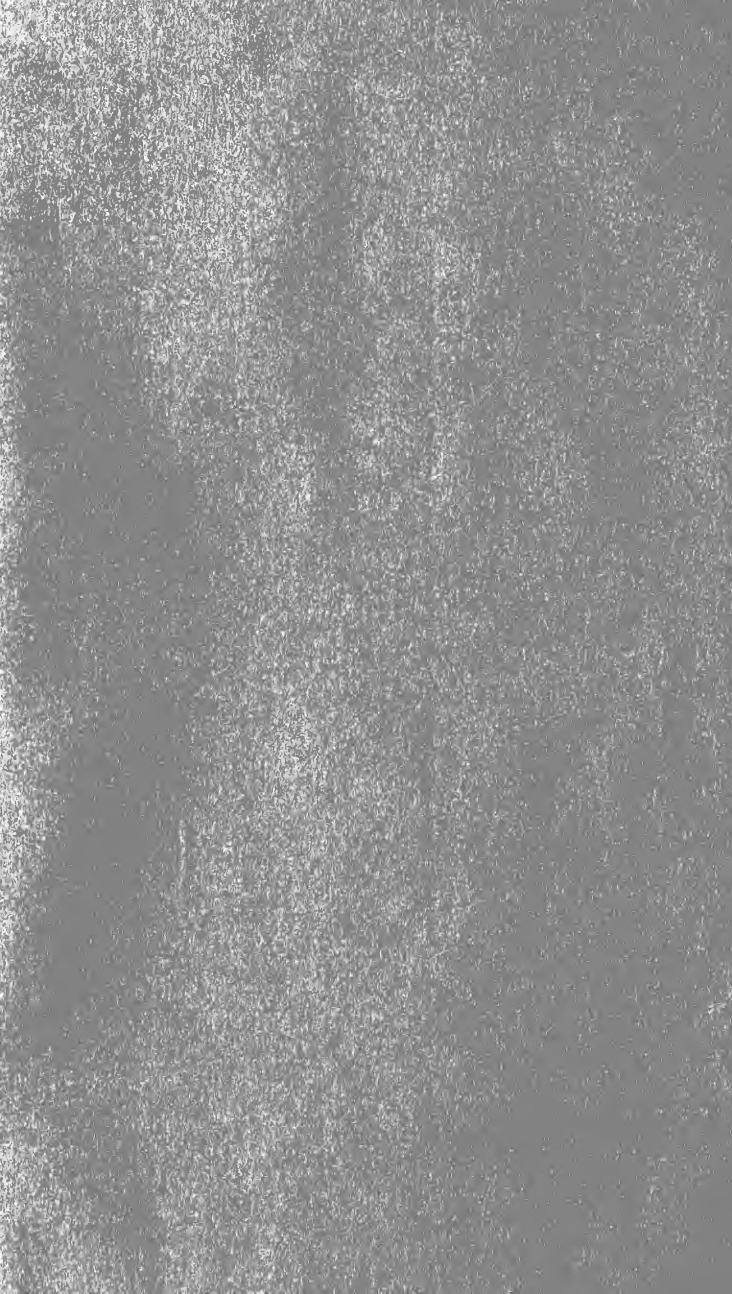
I am, very truly,

Your obedient servant and friend,

FRS. B. ELLISON,

Commander U. S. Navy.

Mr. W. A. BARTLETT, *Washington, D. C.*



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