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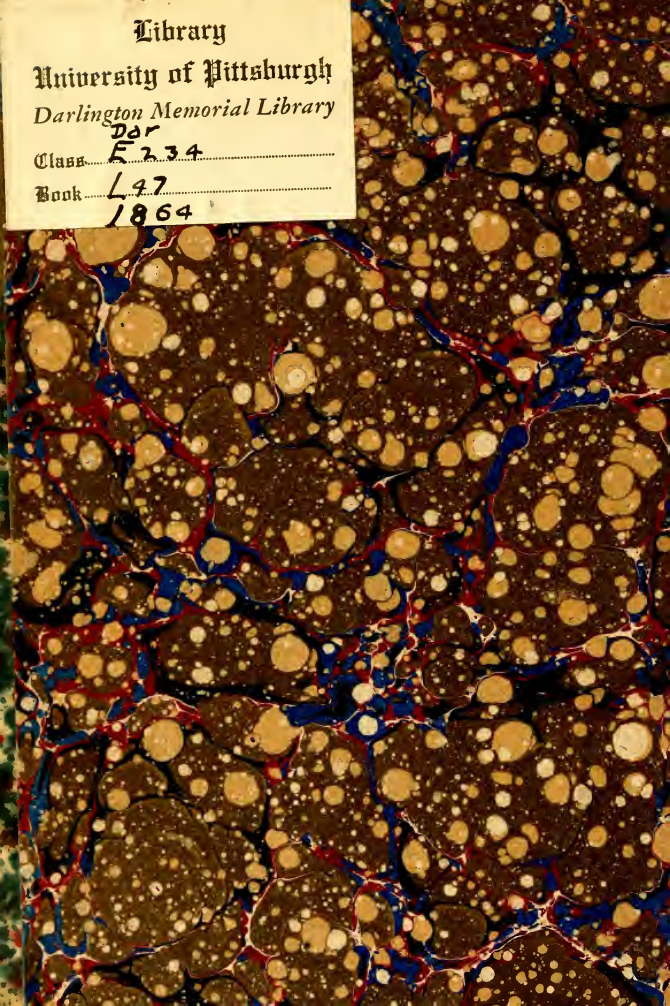
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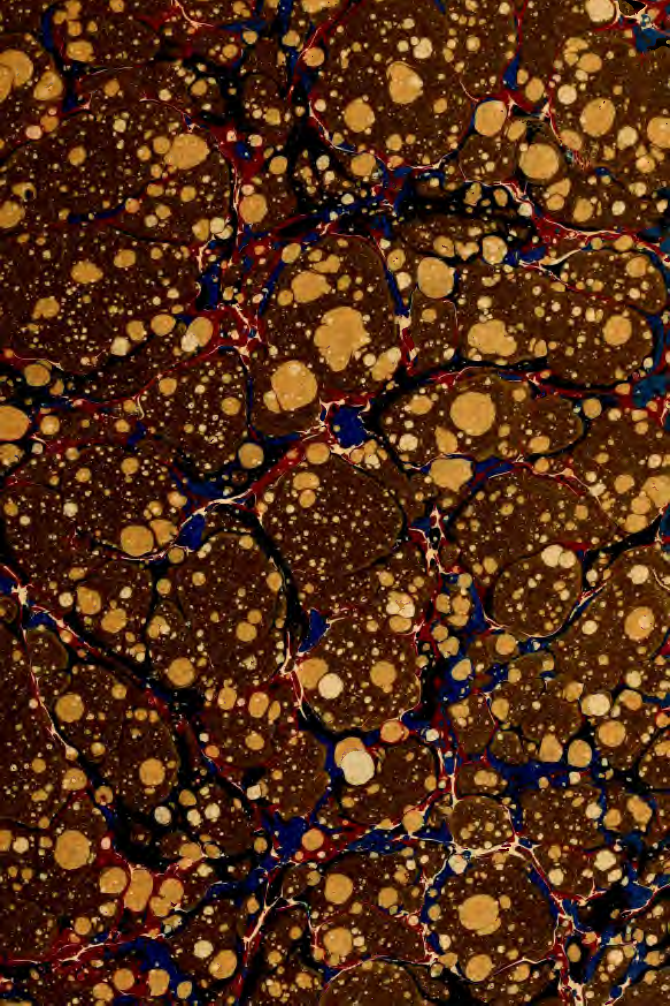
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PROCEEDINGS

OF A

GENERAL COURT-MARTIAL,

HELD AT

BRUNSWICK, IN THE STATE OF NEW-JERSEY,

BY ORDER OF

HIS EXCELLENCY GEN. WASHINGTON,

COMMANDER-IN-CHIEF OF THE ARMY OF THE UNITED
STATES OF AMERICA,

FOR THE TRIAL OF

Charles
MAJOR-GENERAL LEE, 1781-1782, *sign. hand*

JULY 4TH, 1778.

MAJOR-GENERAL LORD STIRLING, PRESIDENT.

NEW YORK:

PRIVATELY REPRINTED

1864.

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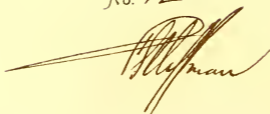
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A handwritten signature in dark ink, appearing to read "J. M. Bradstreet". The signature is highly stylized with long, sweeping horizontal strokes and a large, prominent initial "J".

J. M. BRADSTREET & SON, PRINTERS.

PROCEEDINGS

OF A

GENERAL COURT MARTIAL.

Major-General Lord STIRLING, PRESIDENT.

Brigadier-General SMALLWOOD,	Colonel SWIFT,
Brigadier-General POOR,	Colonel WIGGLESWORTH,
Brigadier-General WOODFORD,	Colonel ANGEL,
Brigadier-General HUNTINGDON,	Colonel CLARKE,
Colonel IRVINE.	Colonel WILLIAMS,
Colonel SHEPARD,	Colonel FEBIGER,— <i>Members.</i>

JOHN LAWRENCE, *Judge Advocate.*

THE Judge Advocate produces the General's Orders for the Court to set, which being read, are as follows :

HEAD-QUARTERS, SPOTSWOOD, July 1, 1778.

A GENERAL Court Martial, whereof Lord Stirling is appointed President, will set in Brunswick to-morrow, (the hour and place to be appointed by the President,) for the trial of MAJOR-GENERAL LEE. Brigadier-Generals Smallwood, Poor, Woodford, and Huntingdon, and Colonels Grayson, Johnson, Wigglesworth, Febiger, Swift, Angel Clarke, and Williams, are to attend as Members..

HEAD-QUARTERS, BRUNSWICK, July 2, 1778.

THE General Court Martial ordered to set this day for the trial of Major-General Lee, will set to-morrow at eight o'clock, at the house of Mr. Voorhees, in the town of New-Brunswick. Members the same as yesterday, except Colonel Shephard *vice* Colonel Johnson.

HEAD-QUARTERS, July 3, 1778.

THE General Court Martial, whereof Major-General Lord Stirling is President, will assemble to-morrow morning, at the time and place mentioned in yesterday's orders. Members the same as heretofore mentioned, except Colonel Irvine *vice* Colonel Grayson.

JULY 4th.

The President, Members, and Judge Advocate being sworn: The Judge Advocate prosecuting in the name of the United States of America, the Court proceed to the trial of Major-General Lee, who appears before the Court, and the following charges are exhibited against him:

First: For disobedience of orders, in not attacking the enemy on the 28th of June, agreeable to repeated instructions.

Secondly: For misbehavior before the enemy on the same day, by making an *unnecessary, disorderly, and shameful retreat*.

Thirdly: For disrespect to the Commander-in-Chief, in two letters dated the 1st July and the 28th of June.

Major-General Lee pleads NOT GUILTY.

Brigadier-General Scott being sworn:

Q. Did you hear General Washington give General Lee any orders the 27th of June?

A. I was sent for to head-quarters early in the afternoon of the 27th of June. I heard General Washington say in presence of General Lee, the Marquis de La Fayette, General Maxwell, and myself, that he intended to have the enemy attacked the next morning, or words to that effect, by the troops under the command of General Lee; and he desired General Lee to call the general officers together that afternoon to concert some mode of attack. General Lee appointed the time at half-past five, but before the officers met General Lee had rode out. I fell in with General Lee that evening, and told him that I had waited on him, and asked him if he had any orders? General Lee said he had none, but said we should not be disputing about rank or what part of the line we should march in.

Q. Did you hear General Washington, on the 27th of June, positively order General Lee to attack the enemy the next morning?

A. I cannot say that it was a positive order, but it did not admit of a doubt with me, but that he meant that General Lee should attack the enemy the next morning.

General Lee's question.—Did you conceive General Washington's orders, or the spirit of them, were to attack the enemy at all events, whatever might be their situation or their force, whether, for instance, it consisted of such a body as General Washington's intelligence announced, that is, of a slight covering party, or whether of the greater part of the flower of their troops, as it turned out, or whether of the whole body of the British army?

A. I do not know what intelligence General Washington had, but I understood we were to have attacked the enemy at all events.

General Lee's question.—Did you conceive that his Ex-

cellency's orders restricted me in my manœuvres, whether I was prohibited from manœvering retrograde or forward, as the face of affairs demanded, or whether I was absolutely enjoined, by my instructions, to march forward, or, at least, to remain on the very ground that the attack should happen to commence, in spite of all considerations?

A. I conceived you were to proceed on, and wherever you met with the enemy to take the earliest opportunity to attack them.

Brigadier-General Wayne being sworn :

Q. Did you hear General Washington give General Lee any orders the 27th of June respecting his attacking the enemy?

A. General Washington called upon General Scott, General Maxwell and myself the 27th of June, to come forward to the place where he and General Lee were talking; and there recommended to us to fall upon some proper mode of attacking the enemy next morning. I did not hear General Washington give any particular orders for the attack, but he recommended that there should be no dispute in regard to rank, in case of an attack, that as General Maxwell was the oldest, he of right would have the preference, but that the troops that were under his command, were mostly new levies, and therefore not the proper troops to bring on the attack; he therefore wished that the attack might be commenced by one of the picked corps, as it would probably give a very happy impression. I do not recollect anything more having been said there upon the subject, but General Lee appointed the Generals who were there, to meet at his quarters about five o'clock in the afternoon,

which I understood was for the purpose of forming a plan of attack on the enemy, agreeable to the recommendation of General Washington.

Q. Did you hear General Washington the 27th of June give General Lee a positive order to attack the enemy the next day?

A. I heard no more than what I have mentioned, but understood from it, that General Lee was to attack the enemy.

Q. By the Court.—Did you meet at General Lee's quarters to concert a plan of attack, or was there a plan of attack concerted, agreeable to the recommendation of his Excellency, any time previous to the attack?

A. At the hour appointed I met with the Marquis de La Fayette and General Maxwell, at General Lee's quarters. General Lee said he had nothing further to recommend, than that there should be no dispute with regard to rank, in case of an attack, for he might probably order on either the right or the left wing, and he expected they would obey; and if they conceived themselves aggrieved, to complain afterwards, and that he had nothing further to say on the subject, but that the troops were to be held in readiness to move at a moment's warning.

General Lee's question.—Do you recollect my giving you some reasons for not arranging a mode of attack?

A. When you mentioned you had nothing further to say on the subject, you said that the position of the enemy might render any previous plan invalid, or words to that purpose.

General Lee's question.—The same as his first to General Scott.

A. I understood that we were to attack the enemy on their

march, at all events, and that General Washington would be near us to support us with the main army.

General Lee's question.—The same as his second to General Scott.

A. I understood we were to attack them, but as I heard no particular orders that were given you, but what I have mentioned, I knew of no restrictions in regard to your manœuvres.

General Lee's question.—Did General Washington's conversation with me, convey the idea that it was his intention to bring on a general action of the two whole armies by my attack ?

A. The idea I conceived from General Washington's conversation was, that we should attack the enemy, and that he should be near to support us with the main body of the army, which, in its consequences, must, if we were pushed, inevitably, I think, have brought on a general action.

Lieutenant-Colonel Fitzgerald being sworn :

Q. Did you carry General Lee orders from General Washington the 27th of June respecting General Lee's attacking the enemy next day ?

A. In the afternoon of the 27th, as General Washington was returning from English-Town to his quarters, after we had crossed the brook and were rising a little ascent, where General Lee's troops were stationed, General Washington ordered me to go to General Lee and tell him that it was his desire that he should draw up his troops on that ground in such a manner as if he was to receive an attack, or expected one ; that, though he did not think it very probable that the enemy would make any attack upon him, yet, from the nearness of their situation, it was by no means

impossible, he therefore wished him to run no risk, and that the officers and men should remain on their arms all night. General Washington said, you will also tell him, when you and the general officers, who I suppose may be now with him, have concerted measures for the attack, he will immediately send to General Dickinson and Colonel Morgan to let them know what parts they have to act. I accordingly went to General Lee's quarters, where I saw the Marquis de La Fayette, General Maxwell, and General Wayne, to the best of my recollection. I called General Lee out and delivered him the above order as nearly as I could. General Lee told me that when the troops had marched to that ground they were so exceedingly fatigued that he thought it a pity to add to it by any immediate movement; but that before night he would put them in the best position in his power to receive an attack; that, from his personal knowledge of General Clinton, Lord Cornwallis, and Sir William Erskine, he thought it highly probable they might turn about and make a stroke at them; and that if he had not been personally acquainted with them, he would have expected it from them as officers; that he had just sent Mr. Mercer off to General Dickinson, but did not know where Colonel Morgan was.

Lieutenant-Colonel Meade being sworn :

Q. Did General Washington send you with orders to General Lee the 28th of June ?

A. On the morning of the 28th of June, General Washington was informed by General Dickinson that the enemy had left their ground, and were on their march. General Washington immediately ordered the troops with him to be put in motion, and desired me to go immediately to General

Lee and inform him of it, to put the troops under his command in motion, leaving their packs behind, to follow the enemy, and bring on an attack as soon as possible. I think, as well as I remember, I observed to General Washington that some circumstances might make it improper. General Washington observed that there might be some powerful reasons, but seemed exceedingly anxious to bring on an attack, and desired me to tell General Lee to bring on an attack, and that he would be up to support him, as he had ordered his troops to be put in motion. I proceeded to the ground where General Lee had encamped, found that he had marched and left his packs behind; I kept on and overtook the front of his column, advanced some distance beyond English-Town, where they had halted. I asked some officer the cause, but was answered that he could give no reason for it. Shortly after I met Captain Mercer, one of General Lee's aids, who told me, if I remember right, that the enemy had not left the ground. I proceeded and met General Lee—told him that I had come to him with orders from General Washington, but as the enemy remained on the ground, it would be needless to deliver the orders I had for him. General Lee exclaimed against the intelligence that himself and General Washington had received, and said that he (General Lee) had advanced a body of troops that he thought in danger; and that he had sent back to General Wayne to take the command of them. During that time, Captain Walker, one of Baron Steuben's aids, came up, who informed General Lee that the enemy had not left the ground; General Lee did not seem to credit it till it was repeated frequently by Captain Walker. I then told General Lee that General Washington had desired he would put his troops in motion, and leave his packs behind. I then

told him that General Washington had ordered the troops under his command to be put in motion immediately, and that General Washington desired he would bring on an engagement, or attack the enemy as soon as possible, unless some very powerful circumstance forbid it, and that General Washington would soon be up to his aid.

General Lee's question.—Did you perceive by my manner, language or countenance, any disposition to litigate or chicane General Washington's orders, further than might arise from the distraction which such a variety of positive, contradictory, and equally authentic intelligence might have occasioned ?

A. I have no reason to determine from what I saw, that you were willing or unwilling to execute General Washington's order. You exclaimed against the contradictory intelligence that you had received.

General Lee's question.—Did you conceive General Washington's orders were, or the spirit of them, to bring on a general action at all events of the two whole armies ?

A. General Washington, I think, was anxious to bring on a general engagement between the two armies.

Lieutenant-Colonel Hamilton being sworn :

Q. Did you deliver General Lee any orders from General Washington the 27th or 28th of June, respecting his attacking the enemy ?

A. I wrote General Lee a letter the evening of the 27th of June, by General Washington's order, a copy of which I have not ; but it was conceived in the spirit, as I understood, of former orders that had been given by him to General Lee, and was occasioned by an apprehension (as declared to me by General Washington) that the enemy might move off

either at night or very early in the morning, and get out of our reach, so that the purpose of an attack might be frustrated. To remedy this, the order directed that General Lee should detach a party of 600 or 800 men to lie very near the enemy as a party of observation, in case of their moving off to give the earliest intelligence of it, and to skirmish with them so as to produce some delay, and give time for the rest of the troops to come up. It also directed that he should write to Colonel Morgan, desiring him (in case of the enemy being on their march) to make an attack on them in such a manner as might also tend to produce delay, and yet not so as to endanger a general rout of his party, and disqualify them from acting in concert with the other troops when a serious attack should be made. This, I understood from General Washington, was in pursuance of his intention to have the enemy attacked, and conformable to the spirit of previous orders he had given General Lee for that purpose. This letter was sent off by a lighthorseman, and the foregoing is the purport of it to the best of my recollection.

General Lee's question.—What hour was the letter sent off to me ?

A. It was rather late in the evening. I went to bed soon after.

Captain Mercer being sworn :

Q. What hour was the letter received from Colonel Hamilton by General Lee ?

A. To the best of my recollection it was past one o'clock in the morning of the 28th of June.

Captain Edwards being sworn :

Q. What hour was the letter received from Colonel Hamilton by General Lee ?

A. When the express came I got up and looked at the watch, and think it was near two o'clock by the watch; I then immediately wrote to Colonel Morgan, General Dickinson and Colonel Grayson to comply with the contents of the letter that General Lee received from Colonel Hamilton, and sent off the lighthorsemen to them.

Q. to Colonel Hamilton.—Did you conceive General Washington's orders, or the spirit of them, to General Lee, were to attack the enemy at all events?

A. I do not. I can't conceive that General Washington could mean to give orders so extremely positive, but that circumstances, which had been unforeseen, might arise, to leave the officer, who had the execution of them, liberty to deviate; but, from everything I knew of the affair, General Washington's intention was fully to have the enemy attacked on their march, and that the circumstances must be very extraordinary and unforeseen, which, consistent with his wish, could justify the not doing it.

General Lee's question to Colonel Hamilton.—Did you, either by letter to me, or in conversation with me, communicate this idea of General Washington's intention as fully and clearly as you have done it to the Court?

A. I do not recollect that I ever did.

General Lee's question.—Was your idea of General Washington's intention that I should attack the enemy, had I found them in the situation which General Dickinson's intelligence assured me they were; that is, the whole arranged in order of battle, at or near the Court-house?

A. I knew nothing of General Dickinson's intelligence; but were the enemy's whole army drawn up in order of battle near the Court-house, I do not conceive it was Gene-

ral Washington's intention to have them attacked by your detachment.

The Court adjourn till to-morrow morning at 8 o'clock.

JULY 5th.

The Court met according to adjournment.

The Marquis de La Fayette being sworn :

Q. Were you with the troops under the command of General Lee the 28th of June ?

A. I was.

Q. Did the troops under the command of General Lee make any attack on the enemy the 28th of June ?

A. I went to General Lee in the afternoon of the 27th of June, and told him I wanted to be with him the next day ; he answered he was very glad of it. I asked General Lee if he had made any previous disposition of the troops. General Lee answered that he thought it would be better for the service to act according to circumstances. The morning of the 28th I sent at four o'clock to General Lee's quarters, to know if there was anything new ; the answer I received was that one brigade was already marching. As I considered myself as a volunteer, I asked General Lee what part of the troops I was to be with ? General Lee said, if it was convenient to me, to be with the selected troops. I put myself with them, in full expectation that these troops would act and be opposed to the British grenadiers. When we were on the march, having marched about one mile, General Lee sent orders to halt. I stopped some time ; but being very impatient, I went to General Lee to know what was the matter. He answered, that all the intelligence did not agree together ; and by his answer I saw that he could

not be assured that the enemy were marching. However, after some time, we began to march again; we halted once more, and, I think, because General Lee received intelligence that the enemy were close by; and I saw some light-horse of the enemy towards Monmouth Court-house. I sent my Aid-de-Camp to General Lee, to represent to him that the place where I was, the cannon and the troops were in a hole, in which it was impossible for us to do anything; General Lee answered that he did not care for that moment, but that he would provide for it. On the march, some troops were taken from General Wayne's detachment to go forward; and, as I was afraid of losing the opportunity of meeting the enemy, I desired General Foreman to point out to the detachment taken from General Wayne's detachment, a short road to go forward. Afterwards I marched again, and I saw one of General Lee's aids, who told me that the rear guard of the enemy was ours; and General Lee himself, some time after, told me something like it in less positive terms. He desired me to tell at the head of Wayne's division, where Colonel Livingston's regiment was, to file off along the wood; and, upon my representation that the cannon could not pass, he told me that the cannon could go along the road. Some moments after General Lee told me that those should go along a fence that was upon our right. An Aid-de-Camp from General Lee told me that the enemy were gaining our right, and that I should prevent them by gaining their left. I went to General Lee, and I understood it was his intention. Then I found one of the columns under the fire of the enemy's artillery almost before the front. I told Colonel Livingston, that as soon as the other columns would form on my right, rather than to stay there still, it was better to go to take the enemy's batteries that were be-

fore us. I was surprised, then looking back, to see some of our troops forming towards the village of Freehold, as they were behind me. I was then told that the troops had been ordered to form there by General Lee, and supposed it was on account of the openness of the field, or the fear of being turned in flank. I rode, myself, to General Lee when Colonel Livingston was retiring; I found General Lee towards the village giving orders that the troops should take post farther back, and disposing some of them in the woods to annoy the enemy; then I saw all the columns of our troops going that way; I was then afraid, as these with whom I was were not going very fast, that the enemy would point some battery towards them. General Lee began to form some troops in that new position, and told me that I should take care of their right; then it was told to General Lee that some of the enemy were filing by their left, and General Lee ordered a new position to be taken back, and the cannon to be removed. While this was doing General Washington arrived. Afterwards I acted by direction of General Washington, and went to the command of the second line.

Q. Did the troops under the command of General Lee, to your knowledge, make any attack on the enemy on the 28th of June?

A. I cannot say that I saw them make any attack on the enemy; I saw them setting out for that purpose, and I heard some noise of cannon; but cannot tell from which party they were fired.

Q. Were you with General Lee's troops from the time they set out to attack the enemy to the time they returned?

A. I was with General Lee's troops until General Wash-

ington came up. At that time I was remaining with a very small part of General Lee's troops.

General Lee's question.—If any attack had been made on the enemy, were you in a position that you could have seen it?

A. No.

General Lee's question.—From what you saw, and from everything that was done, had you not the greatest reason to conclude we either had attacked or put ourselves into such a situation to bring on their attack?

A. By what Mr. Malmedie told me, and you afterwards, my idea of the matter was such that you wanted to cut off a small part of the enemy's rear, and that nothing was to be feared but to lose time or ground; but that your intention was to cut off that part I could not judge but by what you said to me.

General Lee's question.—Did I not direct you to move with your corps towards the enemy in one particular direction, at the same time that I did another corps across a wood?

A. I received such orders for myself, but I know nothing about any orders the other corps received. I saw some other troops marching through the woods.

General Lee's question.—Do you recollect the particular words I made use of when I spoke of the party being ours?

A. The words were: My dear Marquis, I think those people are ours.

General Lee's question.—Did you observe in my voice, manner, appearance, air or countenance, that I was in the least disconcerted, or whether, on the contrary, I was not tranquil and cheerful?

A. It seemed to me by your voice and features you were then as you are in general.

Q. What number of troops marched out under the command of General Lee the 28th of June to attack the enemy?

A. About thirty-three hundred, exclusive of Colonel Jackson's regiment, and General Varnum's and Scott's brigades.

Q. What troops marched in front?

A. The troops under the command of Colonel Durgée and Colonel Grayson.

Q. Did you receive any orders from General Lee to advance and attack the enemy with your detachment, or did you receive any orders from General Lee to retreat?

A. I received an order from General Lee to gain the left flank of the enemy. I was told that the orders for retreating came officially from General Lee; when I arrived at Freehold, General Lee did not disapprove of it. All the other orders for retreating came from General Lee.

Question by the Court.—Were the several corps that you have mentioned disposed so as to act collectively in support of each other; or were they separated by detachments?

A. When I was in the woods I could not see anything of the disposition. The part of the column I did see was together; for in the field I did not perceive any general compact plan, and the disposition at large, of General Lee, was not communicated to me.

Q. Did you gain the enemy's flank before you retreated?

A. I was going to do it, though I found there was not a good deal of time for doing it; but when I was at about the fourth part of what was necessary to be done, I saw that the other troops were going towards the village.

Q. Did you understand by their going towards the village that they were retreating ?

A. I understood they were taking back a better position

Q. When you retreated what distance were you from the enemy ?

A. I was leading the column the nearest to the enemy, and there we had some killed by cannon shot.

Q. Could you estimate the number of the enemy from their appearance ?

A. I could not see all, but I thought I saw about twelve hundred of them ; their horse were covering their front.

Q. Were the enemy in motion at that time ?

A. The enemy were marching towards us, and they were likely to make that movement which they make in all their actions to give jealousy to our right and left flank.

General Lee's question.—Did you not express your apprehension for our right flank ?

A. I told you that there was a gentleman who had seen some troops going that way, and I told you to take care of it.

General Lee's question.—When you said you did not observe any compact plan, did you mean that the artillery did not, except when it was prevented by accidents, such as ammunition being expended or horses killed, support the battalions, and the battalions the artillery, with more regularity than could be expected in manœuvres of this kind ?

A. My meaning was, that I did not see what was the disposition of the several corps. I did find some want in the artillery, but that might be owing to accidents.

General Lee's question.—Did I not express an intention of taking post in the rear of the ravine that crossed the plain,

and for this purpose did I not detach you with a body of troops to take post in the village of Freehold, to see if the village would not cover our wing ?

A. You pointed out to me the particular direction where the troops should go ; you had told me a moment before to take care of the right, and I understood it was in case we should have taken a position on that spot.

General Lee's question.—When you had reconnoitered the village of Freehold, did you find it afforded the security that was expected ?

A. I found that the village did not answer any material purpose.

General Lee's question.—Did I give you any reason to suppose that the principle of our retrograde manœuvres was founded on an apprehension of being pressed and beat in front, so much as it was founded on that of having our flanks turned ?

A. I did not know what was your principle. The only reasonable principle to suppose was this, of having your flanks turned.

General Lee's question.—Did you not observe in these retrograde manœuvres, that the different eminences through the extent of country, from Freehold to the eminence where General Washington had taken place, were all in favor of the enemy, so that the eminence on the enemy's side commanded the eminence on ours ?

A. I did not remark that ; but in some places the want of cannon was complained of.

General Lee's question.—What authority had you to suppose that the Aid-de-Camp, who you were told brought orders from me to move back your corps as you were advancing towards the enemy, was sent by me ?

A. I was told so, but I cannot say by whom, and as I had only one battalion in the field, and the others had retreated to Freehold, where you were, I thought that such an order was coming of course. I cannot answer so well of the motion of the troops, as there was a great confusion and contrariety in the orders, and a complaint amongst the troops on account of it.

Q. Did you know the distance from the place where the troops retreated from the place where General Washington came up?

A. Colonel Livingston's battalion, which was in the centre of the column, was, when it began to retreat, about one-quarter of a mile in advance of Freehold.

Q. Did you think that the number of the enemy's troops that followed was equal to the number of ours that retreated?

A. The number of the enemy did not appear to be equal to ours, but I thought that intelligence had been received that all the British army were coming upon us.

The Court adjourned till to-morrow, eight o'clock.

JULY 6th.

The Court met according to adjournment.

Brigadier-General Wayne being sworn:

Q. Were you with the troops under the command of General Lee that marched towards the enemy the 28th of June?

A. I was.

Q. Did the troops under the command of General Lee make any attack on the enemy the 28th of June?

A. On the 28th of June I received orders from General

Lee to prepare and march with the troops under my command immediately. Having marched about a mile with a detachment there was a halt made in front. About one-half an hour after, I received a message by one of General Lee's aids to leave my detachment and come to the front, and take the command of the troops that were in front; that it was a post of honor, that the enemy were advancing, and to come on immediately. I overtook General Lee near the Meeting-house. When I arrived there I found about six hundred rank and file, with two pieces of artillery, from Scott's and Woodford's brigades, and General Varnum's brigade, drawn up; Scott's advanced up a morass, the other in the rear of it. Some intelligence had been sent from General Dickinson to General Lee, which, when General Lee came up, he said he was surprised General Dickinson had sent him such intelligence, on account of which he had halted the troops there. Some troops were said to be seen by some people advancing to our right. I took my glass, but saw only a few countrymen. The troops were then ordered to advance, and had not advanced far before a light-horseman came and mentioned to General Lee that the enemy were advancing from the Court-house down a road that led through the woods, upon which General Lee directed that the troops might be formed so as to cover two roads that were in the woods where the troops had advanced and formed, and Colonel Butler, with his detachment, and Colonel Jackson, with his detachment, were then ordered in front. Colonel Butler formed the advance guard and marched on. The troops took up again their line of march and followed him. When we arrived near the edge of some open ground in view of the Court-house, we observed a body of the enemy's horse drawn up on the northwest side, and

between us and the Court-house. General Lee ordered the troops to halt, and by wheeling them to the right they were reduced to a proper front to the enemy's horse, though then under cover of the woods. General Lee and myself were advancing to reconnoiter the enemy, and had directed the horse and gentlemen with us to remain under cover. In advancing a piece forward General Lee received some message which stopped him. I went on to a place where I had a fair prospect from my glass of the enemy. Their horse seemed so much advanced from the foot, that I could hardly perceive the movement of the foot, which induced me to send for Colonel Butler's detachment, and Colonel Jackson's detachment, in order to drive their horse back. I then detached part of Butler's people, who drove the horse into the village, by which means I could perceive the enemy were moving from us in very great disorder and confusion. This intelligence I sent by one of my volunteer aids to General Lee, requesting that the troops might be pushed on. In about ten or fifteen minutes after this the enemy made a halt, and appeared to be collecting and forming in same order. I believe by this time one of General Lee's aids came up, and I desired him to inform General Lee that the enemy had made a stand, and, from present appearances, showed they were waiting for us, and were not in much force. Their number appeared to be then about five or six hundred foot, and about three hundred horse, and I desired that the troops might be pushed up. I sent, also, Major Lenox and Major Fishbourne to General Lee with the same account. One of the gentlemen returned with, I think, one of General Lee's aids, who told me that it was General Lee's orders, that I should advance with Colonel Butler's detachment, consisting of about two hundred men, and Colonel

Jackson's detachment, consisting of, I think, about an equal number. Upon our advancing, the enemy took up their line of march and began to move on. I crossed the morass about three-quarters of a mile to the east of the Court-house, near to the edge of a road leading to Middleton, near the road where the enemy were marching upon; when the enemy fired a field piece and set fire to some out-building. The whole of the enemy then in view halted. I advanced a piece in front of the troops upon a little eminence, in order to have a view of their position and a view of their movements. I also perceived that our troops were advancing, and had arrived at the edge of a morass rather to the east of the Court-house. The enemy then advanced their horse, consisting of about three hundred, and about two hundred foot to cover them. The horse then made a full charge on Colonel Butler's detachment, and seemed determined upon gaining their right flank, in order to throw themselves in between us and our main body, which had halted at the morass. Upon Colonel Butler's observing this, he had formed the troops before I returned to him. The horse made a charge in force; he broke their horse by a well-directed fire, which run amongst their foot, broke them, and carried them off likewise. I then ordered Colonel Butler to advance immediately in pursuit of them. We had not advanced above two hundred yards before they began to open three or four pieces of artillery upon us. The enemy at this time appeared to be inclining fast to our right, in order to gain a piece of high ground, and to the right of where I lay, and nearly in front of the Court-house. When the head of their column arrived on it they halted and formed, and so in succession as they came up. I sent off Major Biles to desire our troops that were in view,

and in front of the morass, to advance. The enemy's troops that were then in view, and marching to the eminence, did not appear to exceed seventeen or eighteen hundred. Then our artillery began to answer theirs, from about one-half a mile in the rear of Butler's detachment, when Major Biles returned, and informed me that the troops had been ordered to repass the morass, and they were then retiring over it. Upon this, I galloped up to the Marquis de La Fayette, who was in the rear of either Colonel Livingston's or Stewart's regiment; I asked the Marquis what he was going to do with the troops; he said that he was ordered to cross the morass, and form near the Court-house, from that to the woods. I again sent to General Lee, requesting that the troops might be brought up. Either Major Biles or Major Fishbourne returned, and informed me that the troops were again ordered to retire from the Court-house, and that they were retiring. About the same time, one of General Lee's aids told me that it was not General Lee's intention to attack them in front, but he intended to take them, and was preparing a detachment to throw upon their left, or words to that purport. I then crossed the ravine myself, and seeing General Scott's detachment beginning to cross, rode up with a view of forming them, but found the Colonel preparing to do it. As I got up, General Scott came up and told me he had directed the whole of his people to form there. I then went with General Scott to the Court-house. A morass runs up near the Court-house, in front of it, and continues a considerable distance to the left of the Court-house in front. After General Scott and myself had viewed the ground about the Court-house, I sent off one of my aids to General Lee to request him that the troops might again be returned to the place they had left, which was on the

ravine, near the Court-house. That at this time the number of the enemy did not appear to be above two thousand, and about a mile distant in front, moving on to gain the hill before mentioned. A fire was kept up of cannon between us and the enemy at this time. Major Fishbourne returned and informed me that the troops were still retreating, and that General Lee said he would see me himself. This was at least one hour from the time the charge had been made by the enemy's horse on Colonel Butler, who remained in the same position in the hollow way, advanced near three-quarters of a mile of the Court-house. After Major Fishbourne returned, I perceived the enemy begin to move rapidly in a column towards the Court-house. Upon waiting awhile with General Scott in this position, I again sent Major Lenox and Major Fishbourne to General Lee, requesting him at least to halt the troops to cover General Scott, and that the enemy were advancing, and also sent off to order Colonel Butler to fall back, as he was in danger of being surrounded and taken. These gentlemen returned and informed me the troops were at a considerable distance, retiring, but some appeared to be forming, and they believed there would be no stand made yet awhile. The troops then appeared near a mile in the rear, near a Mr. Wikoff's, where they formed, and where I afterwards formed them. General Scott and myself kept in the orchard near the village till the head of the enemy's column had passed through the village, and were thrown between General Scott and our other troops. General Scott, having received some order, left me; Colonel Meade then came up, and we remained till the enemy had fairly got between us and all our other troops. Having a few horse with us, the enemy made a charge on us; we retired and fell in with the rear

of our troops, who had formed a little in front of Mr. Winkoff's, which were Colonel Livingston's regiment, Colonel Stewart's regiment, and a part of General Scott's own brigade, and two pieces of artillery. I then met with General Washington, who ordered me to make a stand with these troops, and dispute the ground as long as possible, till he had time to form the army.

Q. Did you receive any orders from General Lee to make an attack on the enemy the 28th of June?

A. I did not; but every moment expected such orders.

Q. Did you receive any orders from General Lee to retreat from the enemy the 28th of June?

A. I did not.

Q. What number of troops marched under the command of General Lee towards the enemy the 28th of June?

A. In front, Colonel Butler, with two hundred, Colonel Jackson, with an equal number, Scott's own brigade, with a part of Woodford's, six hundred, with two pieces of artillery, General Varnum's appeared about the same number, with two pieces of artillery, my own detachment was about one thousand, and two pieces of artillery, General Scott's detachment, fourteen hundred, and four pieces of artillery, General Maxwell's was one thousand, and two pieces of artillery; in all, five thousand, with twelve pieces of artillery, exclusive of the militia.

Q. What distance was it from the place where the troops first retreated from to the place where they formed?

A. I think about one-quarter of a mile.

Q. What distance was it from this place to the next place where they formed?

A. From this place to the place where I found them,

which was a little in front of Mr. Wikoff's house, was, I think, about a mile.

General Lee's question.—Were you in your messages that you sent me, as particular and as distinct with respect to the numbers, order or disorder of the enemy, as you are at present?

A. I think I was, from my anxiety to get up the troops.

General Lee's question.—Do you recollect the orders Captain Mercer carried to you when he went to you with Major Lenox?

A. The orders, I think, were to advance with the two regiments; and that it was the General's intention not to drive, but to take the enemy.

General Lee's question.—I would be glad to know what could have prevented the enemy's cavalry from turning the village of Freehold?

A. By advancing and driving them.

General Lee's question.—Did you send Colonel Morgan orders to retreat?

A. At the time our troops had all been drawn from the Court-house, and the head of the enemy's column near the centre of the village, a messenger arrived from Colonel Morgan, who said he had been to seek for General Lee or the commanding officer, and had not found him. I inquired where Colonel Morgan was; he said he was about two or three miles to the left. I told him that he saw our troops were all drawn off; that the enemy were advancing, and that Colonel Morgan should govern himself accordingly.

General Lee's question to the Marquis de La Fayette.—Did you not, while in the village of Freeheld with me, express an apprehension that the enemy might turn our right flank?

A. As far as I remember, I told you that some gentlemen had mentioned some troops were going towards our right, and told you to take care of it; but I did not say in what manner you should act.

Question by the Court to General Wayne.—While you were in front, did you receive any intelligence with respect to the enemy's advancing in force? Or did you make any discoveries of a body coming up to support the two thousand you have mentioned to have been in front?

A. I received no intelligence; but, from my own observation, the enemy kept continually marching up, and forming successively as they arrived. They had been much scattered while marching. They appeared to increase while I was there, from about six hundred to two thousand, and were still advancing to the same position the others had formed on.

General Lee's question.—As we marched in one column until we divided in the forks of the road, do you think we could have brought up to action, even admitting the enemy to be only two thousand, an equal number in as short a time as they?

A. I believe the whole of your troops were formed either immediately in the rear of the ravine, or advanced across it; I know that about three thousand were across and formed, which could have been brought up in time.

Q. When you got up to Wikoff's house, was General Lee there with the troops that were formed?

A. He came up to me while I was forming there the troops that were retreating to the place where the others were forming, and he enquired why these troops were formed there, under the enemy's cannon, and exposed to the enemy's cavalry. I told him it was General Washing-

ton's positive order to make a stand there, and defend that post as long as possible, till he could form the troops. General Lee replied, he had nothing more to say.

General Foreman being sworn:

Q. Were you with the troops under the command of General Lee the 28th of June ?

A. I was, by order of His Excellency General Washington.

Q. Did the troops under the command of General Lee attack the enemy the 28th of June ?

A. The first attack that I saw made, was by the enemy's cavalry, either on the troops under Colonel Butler, or a few of our horse that were on his right ; which cavalry were repulsed by the troops under the command of Colonel Butler.

Q. Did the troops under the command of General Lee retreat before the enemy on the 28th of June ?

A. Shortly after the enemy's horse had charged Colonel Butler's detachment, I rode forward to discover the number and situation of the enemy, having, from every circumstance, conceived that only their rear-guard had been left at Freehold to keep a show, and prevent our troops advancing. From their appearance I judged their number not to exceed one thousand. I then rode in quest of General Lee, informed him of their situation and their supposed number ; at the same time informed the General that I conceived they were considerably in the rear of the column, and offered to take a detachment, and, by marching a road upon our left, to double their right flank. General Lee's answer was, I know my business ; at the same time he was ordering a body of troops to march into a wood on the left of the col-

umn, which troops, I was informed, was a part of the Marquis's detachment. I then left General Lee. Some short time after I observed the General riding towards the front, and, a few minutes afterwards, I saw the Marquis de La Fayette direct Colonel Livingston's and Colonel Stewart's regiment to march towards the enemy's left; and I was informed, by the Marquis, that he was directed by General Lee to gain the enemy's left flank. In this time there was a cannonade from both parties, but principally from the enemy. The Marquis did not gain the enemy's left flank; as I supposed, it was occasioned by a retreat that had been ordered to the village, I presume by General Lee, as he was present and did not contradict it. The troops just began to form in the rear of the village, their left extending to a wood to the northward, the right to the southward; before the line was formed, the troops retreated, and, I was informed by the Marquis, by order of General Lee. There appeared, by this time, much confusion and irregularity to have got in among the troops. The troops upon the left of the village were retreating in line, those on the right in column. I inquired of several officers where they were retreating to. They said to the woods. On inquiring of them what woods, they said they could not tell whether it was the wood in front or on the right or left. The troops soon after this were formed into columns. There came up an officer of the horse, and told me that three regiments were to throw themselves into a wood on the right; I sent him with this order to General Maxwell, and afterwards part of General Maxwell's troops went into the wood. During the retreat across Mr. Ray's field, I was present, and saw General Lee ride up to the troops as they were retreating, and order the troops to retreat with more haste.

Q. How far was the enemy from General Lee's troops when he ordered them to retreat with more haste ?

A. About half a mile in rear of his troops.

Q. Were General Lee's troops at that time in order or disorder ?

A. The body of the troops seemed to be confused and in disorder.

General Lee's question.—Were you ever, in this country, in a retrograde manœuvre or retreat from a body of troops in the face of the enemy ?

A. Yes.

General Lee's question.—Was it conducted with more or less disorder than mine was ?

A. I have seen retreats with more confusion and some with less.

General Lee's question.—Where did you see a retreat with less confusion in the face of the enemy ?

A. At the White Plains. I went off with a part of the army in the evening, and saw no confusion.

Brigadier-General Scott being sworn :

Q. Were you with the troops that marched under the command of General Lee the 28th of June towards the enemy ?

A. I was.

Q. Did the troops under the command of General Lee make any attack on the enemy the 28th of June ?

A. About five o'clock in the morning of the 28th of June, I had orders to put my detachment in motion immediately, and follow the rear of General Maxwell's brigade, passed through English-Town, where we were ordered to halt, and then received an order from one of General Lee's aids, to

march in the rear of General Wayne's detachment. About this time there was a halt for about one hour. Then we marched on near the Meeting-house, where there was a second halt made; we were again ordered to march on; about a mile beyond the Meeting-house we were again halted some short time, when several pieces of cannon were fired, and some small arms in front of the column, about which time we were ordered on, and soon took a road leading us immediately to the left. After marching near one-half a mile, we turned an old road to our right, which brought us into a field to the left of some of our troops that were formed, where there was a pretty brisk fire of cannon on both sides. I receiving no orders more than these, to follow General Wayne's detachment, they wheeled to the right, and moved on in a line with those troops I saw formed; before I had got far enough to wheel up my detachment, I found the whole of the troops upon my right retreating, as I supposed to repossess the morass, which they were then about to do. After reconnoitering the enemy, and reviewing the ground that my detachment stood on, I thought proper to repossess the morass and take place in a wood with the morass in my front. About this time I sent my artillery immediately back the road I came, into the field, finding it impossible for them to act on the ground I had taken, or even to get to it. I then fell in with General Wayne, rode with him from there up to the little village at the Court-house, and enquired of him the occasion of the retreat; he said he could not tell, but he had sent one of his young gentlemen to desire General Lee to send the troops back, for there was nothing to fear. I continued with him until the gentleman returned; he brought no other answer but that General Lee would see General Wayne himself.

General Wayne sent to General Lee a second time, desiring him at least to halt, if he did not choose to return the troops, to favor my retreat, that my detachment was in a good deal of danger of being cut off. We continued on the ground near the village until the enemy had passed my right, and almost cut off the retreat of my troops to our other troops; during all this time I received no orders from any person whatever; upon which I thought proper to order off the detachment, by filing off to the left of battalions, and marching through the wood, rather in the rear of the enemy's advance guard, near a mile, when I fell into the road leading to the Meeting-house, upon which I ordered a battalion to form, in order to cover our retreat. At this time I heard a fire begin upon our right; I made no doubt there was a stand made there also, and I ordered Colonel Parker to go back and to move the battalion forward to join the detachment, and that there was a cover formed upon our right; but he was prevented delivering my orders by the front of a column of the enemy, between the rear of my detachment and the battalion formed to cover it, which battalion did not join my detachment afterwards that day. I moved on with my detachment to the hill in front of the meeting-house, where I met with Lord Stirling, who told me we were to form there.

General Lee's question.—By whose orders did you leave the wood you were posted in?

A. I received no orders either to take post there or to leave it.

General Lee's question.—Do you recollect the precise position you were in, with respect to the enemy, when you thought you were in danger of being intercepted?

A. I was on the west side of the morass, in a wood

about half-a-mile to the left of the Court-house ; the enemy's front was in or near the village, passing to my right almost in my rear.

Q. Could you estimate the number of the enemy at that time ?

A. I do not think there were more than twenty-five hundred, the horse included

Q. Did you see the retreat of the rest of our troops ?

A. A part of the rear.

Q. Did the part you saw appear to be in order or confusion ?

A. They appeared to be in confusion ; they were running and the horses trotting with the field pieces.

General Lee's question.—Did it appear to you that the men were running away, or were only hastening their steps to take a more advantageous post in their rear.

A. I expected they were about to repass the morass, in order to take post on the western side ; I moved my detachment immediately, in order to form the line with them, but when I got there I found they had not formed agreeable to my expectations, but had left that ground, and were entirely out of my sight.

The Court adjourns to the house of Isaac Arnot, in Morris-Town, till Wednesday next, at eight o'clock.

WEDNESDAY, July 8.

The Court met at Morris-Town, and adjourns to Paramus till Friday next.

FRIDAY, July 10.

Not a sufficient number of members attending at Para-

mus, the members present adjourn till to-morrow at eight o'clock.

JULY 11.

The Court met at Paramus.

Major Lenox being sworn :

Q. Did you carry any message from Brigadier-General Wayne to General Lee the 28th of June ?

A. I carried one message to General Lee from General Wayne.

Q. What was it ?

A. I went to inform him that the enemy had halted, and, by their appearance, seemed disposed for action. In case of General Wayne's attempting them, he requested General Lee would come up to support him.

Q. Did you receive any answer from General Lee, at that time, for General Wayne ?

A. General Lee said it was a customary manœuvre with retreating troops, and that he was coming up, or words to that effect ?

Q. Were the enemy's troops advancing or retreating when they halted ?

A. They had retired, and had advanced about two or three hundred yards afterwards.

Q. How did the enemy's troops appear to be situated ?

A. About a quarter of a mile in front of the Court-house, a little below a hill ; they had formed there, and others were coming up reinforcing them.

Q. Did General Lee's troops come up ?

A. Not that I saw, except troops that I took for General Scott's brigade, that had advanced across the morass, which

was after the enemy's horse had made a charge on Colonel Butler's regiment.

Q. Were General Lee's troops put in motion upon your delivering General Wayne's message to him?

A. I did not see them put in motion. I rode off immediately upon receiving the answer for General Wayne.

Q. Could you form any judgment of the number of the enemy, when you went with the message from General Wayne to General Lee?

A. I imagine their number did not exceed one thousand foot, and between two and three hundred horse. When I returned they were considerably reinforced, and more coming up.

General Lee's question.—Did I not explain to you what my intentions were, and in what manner General Wayne was to proceed?

A. No.

General Lee's question.—Were you in such a situation that if the troops were put in motion you could have seen them?

A. You might have filed off in the woods to the left, which would have put it out of my power, as I was advancing in front in the open field with General Wayne.

Q. Do you mean, that if General Lee had filed off his troops in the woods to the left, that movement would have put it out of your power to have seen them?

A. Yes.

Colonel Scilly being sworn:

Q. Did you march with the troops under the command of General Lee, when they advanced towards the enemy the 28th of June?

A. I was in the detachment under the command of Brigadier-General Scott.

Q. Did these troops make an attack on the enemy the 28th of June ?

A. We marched down till we came near Monmouth Court-house ; I then heard a scattering fire of musketry, with some field pieces, but knew not whether from our troops or the enemy. We still advanced through a wood until we came to an open field, which opened to the Court-house. I saw the troops in front of me form the line and move forward towards the Court-house. As soon as we marched out of the wood into the field to get room, we were ordered to form by General Scott ; but immediately ordered to wheel by platoons, and to advance' after the troops that were advancing rather to the right of the Court-house ; there we were ordered to halt ; immediately on our halting, the troops on our right marched on, and by wheeling to the right, passed a morass. Upon that, General Scott ordered his detachment to march from the right of battalions to cross a morass in their rear, and to form in a skirt of wood ; we formed there. We lay there some time. The troops on our right were all gone out of sight, having retreated towards English-Town. The enemy, at this time, were retiring as far as I could see ; they retired about two or three hundred yards, and at length made a halt, and in a few minutes marched back towards the Court-house. General Scott being absent, and the detachment laying there about half an hour, when the enemy marched by, having their cavalry on their right flank and in their front until they got into the village near the Court-house, then they filed off to their left and our right, and the column came down from the road in the front of General Scott's detachment. I then sent

Captain Croghan and Captain Kelly in pursuit of General Scott, to inform him that the enemy were coming down in two columns, as I suppose, to attack us. He sent back Kelly and Croghan to order me to retreat by the left of battalions in columns. We retreated through a wood to where the stand was made, where I saw Lord Stirling, who ordered me to form, which I did.

Q. How were the enemy's troops situated when you first came in sight of them ?

A. They appeared to be in confusion.

Q. How great was their number ?

A. When I first saw them they did not appear to be above eight hundred ; but before I went back I think about two thousand or twenty-five hundred appeared in sight.

Q. Do you know whether any measures were taken by General Lee towards attacking the enemy ?

A. I do not.

Q. Did you take any particular notice of the troops that were in advance of you when they retreated ?

A. They retreated fast ; their rear went off in a trot.

Q. What did you suppose at the time occasioned them to retreat in that manner ?

A. I supposed they must have seen something that I did not see ; I could see nothing at that time which could occasion them to go off in that manner.

Q. Do you know who immediately commanded these troops ?

A. I do not.

Q. Did you see or hear of any other firing than the scattering firing when you first came up ?

A. There was a few cannon-shot fired, after I got up, on both sides.

Colonel Grayson being sworn :

Q. Did you march with the troops under the command of General Lee, towards the enemy, the 28th of June ?

A. About three o'clock in the morning, I received an order signed by an Aid-de-Camp of Major-General Lee, purporting that Major-General Scott's and General Varnum's brigades should get in readiness immediately to march towards the enemy with their packs, and to give notice when they were ready. Shortly after this, and before they were ready to march, I received another order, desiring that the troops might be marched into English-Town, where General Lee would be ready to receive them. As soon as we got to English-Town I waited on General Lee, who informed me I was to advance towards the enemy, but to halt at the distance of about three miles from them, and to send repeated intelligence of their movements. At the same time, one of General Lee's Aids-de-Camp put into my hands a written paper from General Washington to General Lee, desiring him to send out about six or eight hundred men to act as a body of observation, and to give frequent information of the enemy's movements, and to attack them in case they began to march. The next line, I think, was, that the time and opportunity was left to the commander of the party. I applied for a guide ; was informed by General Lee that some light-horse were to go with me ; General Lee immediately sent Major Edwards to procure a guide, who soon returned with one, and informed General Lee they had disappeared ; at which General Lee seemed disturbed, and sent the Major off again. Some time after this, General Foreman furnished a guide. I began my march with General Scott's and General Varnum's brigades towards the enemy from English-Town. Some distance from English-

Town, I think about two and a half miles, General Lee sent word to march slow, and shortly afterwards to advance. We proceeded to a bridge in the rear of the hill where the stand was made, where we saw a firing, and where we saw a party of militia retreating from the enemy, keeping up an irregular retreating fire. General Dickinson sent to me for a regiment to cover the retreat of the militia, which I went with; and, on seeing Colonel Oswald, we agreed that a field-piece should be advanced also. Upon our advancing to the top of the hill, we discovered that the enemy had gone off; upon which, we drew up nearly on the place where the stand was made, and very shortly after, General Lee came, (this was early in the morning,) who told me that the other parts (as I understood), Scott's and Varnum's brigades, should come forward. Before General Lee came up, in the conversation I had with General Dickinson, he seemed strongly impressed with an idea that the enemy would send round a column on our right, and another to the left, which would put the continental troops in danger, and they had better be withdrawn, and he would scuffle it out with them with the militia. I heard General Dickinson maintain nearly the same conversation with General Lee as with me, with some warmth; General Lee went to reconnoiter the enemy; and, upon his return, part of General Scott's brigade was advanced by General Wayne, who posted them upon the left of the road that leads to the Court-house. The intelligence I understood General Lee received was, that a column was advancing up that road; (I did not hear General Lee mention that a column was advancing up the road.) We remained there for some time, when I received orders that the column was not advancing, and we might come off, which was immediately contradicted, and we were ordered to stay on the

ground, which we did, until the rest of the troops came up, on their march to the Court-house. When the brigade joined again, Colonel Jackson's regiment was ordered into our rear. We continued our march with the other troops until we got to a hill on this side the morass, which is contiguous to the Court-house, where we made a halt, and I observed General Lee reconnoitering the enemy, and I rode myself a small distance, when I saw their horse, but not their infantry. Their horse appeared to be in confusion, and as they fronted us were to the left of Freehold. One regiment of Scott's brigade was formed upon the left of the road, and the other regiment marched towards the Court-house. I followed it and found it posted behind a fence nearly opposite to the Court-house. I asked the commanding officer what were his orders? And asked him if his orders were to stay there? He told me they were. I rode by the fence and a short distance into the plain, where I saw the enemy distinctly drawn up on the right of the Court-house; their number appeared to be five or six hundred infantry, with a body of horse. I turned back, and finding that other bodies of our troops were in motion, which they were to our left, and the enemy beginning to file off to their right, I asked again of Lieutenant-Colonel Parke, if the orders were to stay there? He told me they were. However, I took upon myself to order them on with our other troops, who were filing off to the left, as if to turn the enemy's right. Shortly after our being in motion, I saw General Lee and Major Mercer; Major Mercer accosted me with some warmth, and asked me why I was not in the rear of General Wayne? I told him I had no orders to be there; he said orders were given to Lieutenant-Colonel Parke; I told him when he gave me orders he might depend on their

being executed. We proceeded, and were joined by the other regiment and crossed a morass, where I saw a body of troops that were halted, and I believe were General Varnum's brigade, and some other troops. As soon as we had got cleverly halted on the other side of the morass, on the edge of an orchard, we observed a body of the enemy's light-horse advancing towards us with great rapidity, some of our horse and some horsemen retiring before them. When they came within musket shot they were repulsed by a fire from part of the left of General Scott's brigade. General Lee shortly after this came up. General Scott's brigade advanced in order to get into the rear of General Wayne, who, I understood, was in a wood some distance in our front. We continued our march until we got near to the edge of the wood, when a message came by a gentleman, who informed me that he was from General Wayne, desiring me not to enter the wood, but to keep my ground; I think he said that the enemy were retreating by their right. There were no troops then that I saw, either upon my right or left. Colonel Jackson's regiment was in our rear in a morass. I then saw the enemy drawn up in order of battle, in much greater numbers than before, and they cannonaded us from two or three pieces of cannon. I halloed to Colonel Jackson to come and form upon the top of the hill upon my left, who asked me if I had any artillery, I told him I had not; Colonel Jackson did not come up. Soon after this, Major Mercer came from General Lee, who expressed his surprise that I was not in the rear of General Wayne as ordered; I told them I was advancing as fast as possible, but had contrary orders from General Wayne. Mr. Mercer said he was the proper person through whom orders should

be given. About this time I saw Colonel Jackson's regiment retreating, and Major Mercer told me to go off in the rear of Colonel Jackson's regiment the way I had come. We retreated or went back, recrossed the morass, where General Scott's detachment was halted in a wood, where we halted also. The enemy at this time were advancing towards the Court-house. I went into the plain with the Brigade-Major to view the enemy, and saw them advancing in force. Upon my return I found the whole of the troops that had retreated with me had marched. We continued our rout till we come near a fence in the front of Hart's house, when Major Mercer formed the regiment to oppose a body of light-horse, as it appeared to me, (the other regiment was before detached to cover the two pieces of artillery that had been engaged near the Court-house,) I thought it might be formed to more advantage behind the fence, and took the liberty to do it; after which I did not see General Lee or any of his Aid-de-Camps, or receive any orders from him or them that day.

Q. What was the situation of the enemy when you first discovered them?

A. When I first discovered them I saw only a body of horse, and several persons riding before, who appeared to be reconnoitering or putting them into better order.

Q. How were the enemy situated when you first discovered their infantry?

A. In excellent order, with their light infantry advanced in their front.

Q. What were their numbers?

A. As near as I can guess about five or six hundred infantry, with a large body of horse.

Q. Did you receive any orders from General Lee to attack the enemy ?

A. Immediately after the enemy had retreated from the Court-house I fell in with General Lee, who mentioned to me with some degree of animation, to keep in the edge of a wood, and to attack them in small bodies, and by God he would take them all.

Q. When you saw the enemy drawn up in order of battle, how were they posted ?

A. They were drawn up in a line, with the cavalry on their flanks ; the ground appeared to be level.

Q. Could you form any judgment of their numbers ?

A. I could not.

Q. When you were ordered to go off by Major Mercer, did he mention any place you should retreat to ?

A. No.

Q. Did he desire you to go off in haste ?

A. No.

Q. When you were ordered to go off by Major Mercer, were any troops ordered as a covering party ?

A. No.

Q. Were you ordered to retreat in any particular manner ?

A. No.

Q. How far did you retreat before you made the stand ?

A. First stopped where General Scott's detachment was posted, and then retreated to the fence near Hart's house ; I think the distance from the place we retreated from to Mr. Hart's, is near two miles.

Q. When our troops retreated, did they retreat in order or disorder ?

A. I observed no troops but those immediately under my

command, which came off in good order, as did Colonel Jackson's regiment that was in front.

Q. Did the ground that you retreated over appear to be favorable to make a stand on?

A. From the idea I have of it, which is not a very accurate one, I think it was; to me it appears now, there was a piece of ground immediately on this side the Court-house, that has a wood upon each flank, and a morass in front.

Q. How long did you remain in the front of the fence near Mr. Hart's house after Major Mercer had formed the men there?

A. A very short time.

Q. What occasioned you to remove from thence?

A. They were ordered off, I suppose, by some *Aid-de-Camp*, to form in a wood near the road, not far distant from where they were formed in the morning by General Wayne.

General Lee's question.—Do you think it possible for an officer in the line, who only sees partially, to be a judge of the ground proper for each party to make a halt on?

A. He has not so good an opportunity of knowing the ground as he whose business it is to investigate it by reconnoitering.

Colonel Stewart being sworn:

Q. Did you march with the troops under the command of General Lee towards the enemy on the 28th of June?

A. I marched in the detachment under the command of General Wayne, which I understood was under the command of General Lee.

Q. Did these troops attack the enemy on the 28th of June?

A. Not to my knowledge.

Q. Did these troops retreat from the enemy the 28th of June ?

A. They did.

Q. By whose orders ?

A. On General Wayne's detachment advancing out of the woods across the plain, about three-quarters of a mile in advance of Monmouth Court-house, Colonel Lawrence came up to me at the head of my detachment, informing me that the enemy were endeavoring to gain our right flank : the Marquis and Colonel Lawrence were both in company at that time, and desired I would push my detachment towards the right. I marched on till I got nearly in a line in front of the Court-house. A cannonading had begun when I came out of the woods, and had been kept up during the time I marched across the plain. Colonel Lawrence came up and informed me it was found necessary we should retire to the village, and ordered me to retire to that place. On my arrival at the village, he ordered me to form in an orchard to the right of the town. I had not been formed in that place above five minutes, before an order came from Major Ogden, who said he came from General Lee, to retire to a piece of wood farther in the rear. On my march to these woods, I fell in with General Lee and several other gentlemen, and not understanding which wood Major Ogden meant, I asked General Lee which wood I should take the men to. General Lee, seeing the men much fatigued, said, take them to any place to save their lives, pointing to an orchard in front. After remaining a short time there, Major Edwards, one of General Lee's Aid-de-Camps, ordered me to a piece of woods farther on towards the morass, the morass being in the rear of the ground I was then on. On my march to this place, the enemy's horse appeared in sight, and pretty

near; General Lee rode up, and ordered me to form my men in order to oppose them. Before they came quite up to where my regiment was formed, they made a halt, and returned towards the main body, the head of which was advancing out of the village. During the advance of the horse, I asked General Lee whether it was not proper for me to advance to a fence which was about fifty yards in front; he answered me, he intended to bring a regiment there, that I should cover their retreat, and that one should be in the rear to cover mine. I was again ordered to pursue the route to the piece of woods in the rear. The regiment in front of me did retire, by which means I was left with my single regiment. The enemy had come up pretty near to me when I saw the Marquis de La Fayette, and demanded to know what I should do; his answer was, he saw no necessity for having my regiment cut to pieces, and he thought I had much better retire after the other troops. On my repassing the marsh, just as I had got over it, His Excellency came up and ordered me to form my detachment.

Q. What was the situation of your detachment when you came near the enemy?

A. We were marching in column, seven or eight men in front.

Q. How near were the enemy to you when you first began to retreat?

A. I do not think, from my particular detachment, they were above six hundred yards.

Q. How strong did they appear to be?

A. I did not look upon them to be more than six hundred infantry, besides the horse, which appeared to be pretty numerous.

Q. Were they advancing towards you ?

A. They had halted.

Q. How large a body of our men was there that could be opposed to the enemy ?

A. There were three detachments posted where I was, consisting of about eight hundred men.

Q. Did you receive any fire from the enemy before you retreated ?

A. None but their artillery ; one man of mine had his leg broken

General Lee's question.—Did I not appear in the whole course of the day tranquil ; and did I not give my orders distinct and clear ?

A. When I had an opportunity of seeing you, you appeared as usual, without being disturbed.

General Lee's question.—Did you not conceive, when I ordered you to take your men to some place to save their lives, pointing to an orchard in front, that it was done that you might take them to some place to shade them from the heat of the weather ?

A. I understood it that way.

The Court adjourned till eight o'clock to-morrow.

JULY 12th.

The Court met according to adjournment.

Colonel Richard Butler being sworn :

Q. Did you march with the troops under the command of General Lee towards the enemy the 28th of June ?

A. Yes.

Q. Did these troops attack the enemy the 28th of June ?

A. I moved on from English-Town with about two hun-

dred troops under my immediate command. I received orders to move on with my battalion, and orders came at the same time to Colonel Jackson to move to the front. Both the battalions were a considerable distance back in the line of march, but on receiving the order I gave orders for my battalion to move on, and rode forward to where General Lee was, and General Wayne; I informed General Wayne that my battalion was pretty far back, but that I had ordered them on; General Wayne mentioned it to General Lee, who said it was immaterial which battalion, and ordered General Wayne to take the two nearest battalions, and move them forward. Before the troops arrived a body of our troops had crossed a causeway, and was returning down towards the causeway from the top of the rising ground, at which time the battalions that had been first ordered came up to the causeway, and agreeable to the first order moved on to the front of the whole; General Wayne then ordered me to move on with my battalion to take the front, and to attack the enemy wherever I should come across them; he told me it was necessary, as it was woody ground, to extend a front, and to march the men in such a manner as I could form them immediately in case of an attack; I accordingly ordered a sergeant and party, as an advance party, a small party upon each of the flanks, and the battalion to march from the right of platoons by files, with a proper wheeling distance between each other, to form. After this disposition was made, General Lee came up and ordered the battalion to be formed again, and marched in column from the centre by files; moved on a small distance in this manner, and then was left at my own discretion to form them as I thought proper. I then ordered the left from the centre to wheel on, and march by the right of platoons by files, the

right by files as before. As General Lee desired I should keep the troops in the woods as much secreted as I could, so that the enemy should not perceive our approach, as there was clear ground on our right, and woods on our left, in that order I moved on till I passed that clear ground, and had room to form the whole in proper front. General Wayne then ordered me to move on and attack the enemy. I accordingly went forward, and received a small scattering fire from some troops that I took to be the Queen's rangers, from along a fence upon my right; immediately I wheeled up the men, ordered them to reserve their fire and push on. A few of them fired. On our approach they left this ground, and I moved on to within sixty yards of an orchard, to the left of the road leading to Monmouth Court-house, and then filed off to the left of the enemy's left flank, as I saw them moving off. I then sent word to General Wayne, by Major Biles, that the enemy were moving off; on which General Wayne immediately came up, and ordered me to take post in a small point of wood, rode off from me and told me he would forward up more troops. I there saw a small body of British troops move off retiring, and the artillery wagons after them. The British horse moved off in regular order on the left of the rear of the artillery. A party of infantry appeared to me on the left flank, and appeared to go on as a flanking party. After the horse, a body of foot went off in columns in regular order, and kept their flanking party out in the same manner. I then sent word by Major Biles to General Wayne or General Lee, informing them in what manner the British troops were moving off, and that, in my opinion, if we had a mind to strike the enemy, that was the time to improve an advantage, as they were all in motion moving off. I then moved my party across a small morass,

that they might not be in the way of other troops as they came up. When I got over the morass, General Wayne joined me, and ordered me to move on upon the enemy's left flank. I moved on about one-quarter of a mile, when the enemy made a halt at a small piece of wood, and their horse formed and faced about, and made a charge upon my party; we gave them a fire, they broke, and in their retreat from us broke through their own foot and disordered them; they then brought two or three pieces of cannon to bear upon us. General Wayne ordered me to move the party down into a small hollow, to cover them from the fire of the artillery, and from thence to move them to a small piece of wood; he then left me and sent back Major Biles to me, ordering me to remain there until further orders. Our artillery then began to play pretty smartly amongst the enemy and caused considerable disorder amongst them. I remained in that condition for about ten minutes or one-quarter of an hour, before the enemy began to move towards the Court-house again; they moved on very slow, and, seemingly, very regular; continued so for about an half hour or more, making small halts and moving on, in which time there was a considerable cannonade on both sides, and some musketry on my right, which I conceived was principally from our people. The enemy still continued moving on, and I saw a body of troops coming on that I had not seen before, in very regular order from what had been in the front of those who had moved off before; troops that had marched and were coming back again. The troops I first saw, appeared to be the rear guard of the whole army, and the other body I took to be the rear of the main body. I remained still better than a quarter of an hour, till the troops I have mentioned before seemed to have gained ground on our people; the fire going from me

on my right. I then thought it was time to provide for the safety of my party, the enemy being on my right in front, and on my left, a large morass in my rear. I called the two field officers and asked them their opinion respecting our moving from that ground; they gave it as their opinion that we ought; we then retreated through the morass that was in our rear, and came by the way of Furman's mill, halted a small time to refresh the men. I ordered Major Ledyard to ride up towards the road we had advanced upon, to see where our people were, that we might join them again. He came back and informed me the enemy were moving on upon the plain ground, and it appeared to him our people had moved back. I then marched my party to one Craig's house, upon the left of our army, and saw a body of troops formed there, which I afterwards found to be the left wing of the army.

Q. How great was the number of men the enemy returned with toward the Court-house?

A. They appeared to be about fifteen hundred foot, and between one hundred and fifty and two hundred horse.

Q. Did you see any of our troops at that time beside the party you had under your command?

A. No.

Q. Did you see any of our troops retreat that day?

A. No; only the troops under my command.

Q. Did you see any other body of the enemy besides the fifteen hundred foot and one hundred and fifty or two hundred horse you have mentioned?

A. Yes.

Q. How great was the number?

A. They appeared to me to be about five or six hundred foot.

Q. Do you recollect whether General Lee personally gave you orders to attack the enemy ?

A. I do not recollect in any other manner than his ordering me to go on, but I considered the whole of the orders I received from General Lee and General Wayne previous to my attack, to go on and attack.

Q. Did you receive any orders from General Lee after he desired you to keep your troops secreted in the woods, so that the enemy should not perceive their approach ?

A. No; I was then moving on towards the enemy.

General Lee's question.—Did you understand from Major Biles that he delivered the message to me you desired him to deliver ?

A. I do not recollect he ever informed me whether he did or did not; I never asked him about it.

Major Fishbourne being sworn :

Q. Did you carry any message from Brigadier-General Wayne to General Lee on the 28th of June ?

A. I did.

Q. What was it ?

A. When General Wayne and myself, with Major Lenox, had got within a mile of the Court-house, he saw the enemy moving towards Middletown, with a body of horse in their rear. General Wayne then ordered me back to General Lee, to inform him that the enemy were moving on towards Middletown, begging him to forward on the troops. I came to General Lee and informed him what General Wayne had desired me; he made no answer, but rode back towards the troops, as I thought, in order to forward them on. I returned to General Wayne; by this time he had Butler's detachment across the morass. Butler's detach-

ment was moving on in order to get upon the left flank of the enemy, when a body of the enemy's horse made a charge upon him, he formed his regiment and gave them a fire, at which the enemy's horse retired to their infantry, who also retired. General Wayne then sent me back to General Lee to inform him that the enemy were retreating, and to forward on the troops. General Lee said pho, pho, it is impossible; and asked me who sent me? I told him General Wayne. Butler's detachment was ordered by General Wayne to file off to the left in a piece of woods. General Wayne, after Butler's detachment had gone off, crossed the morass himself, with Major Lenox. He there met with General Scott. They ordered Major Biles and myself to go and inform General Lee that the enemy were retreating, and begged him, for God's sake, to forward on the troops or the detachment which he had honored him with. Major Biles and myself rode back, and found General Lee about two miles in the rear with the retreating troops. I informed General Lee of the message; and General Lee desired me to inform General Wayne that he would see him himself immediately.

Q. Did General Lee forward on the troops that General Wayne requested?

A. Colonel Jackson's regiment came on.

Q. What time elapsed after you were sent with the first message to General Lee, before you were sent with the second?

A. About one hour, to the best of my knowledge.

Q. Were the enemy's troops retiring during this time, or advancing?

A. After Colonel Butler had repulsed their horse, they retired, and were retiring when I carried the second message.

Q. What time elapsed after you were sent with the second message to General Lee from General Wayne, before you were sent with the third?

A. About one half hour.

Q. Did General Lee see General Wayne himself to your knowledge?

A. He did not, to my knowledge.

Q. Were the troops that were retiring with General Lee in order or disorder?

A. They appeared to be in much disorder and much scattered.

Q. In what manner were they retreating?

A. They were retreating in small parties, perhaps a regiment or two might be together.

Q. Was General Lee in the rear or in front of the retiring troops?

A. I think he was in the centre.

Q. Did you observe any body of men drawn up in the rear of the retiring troops to cover their retreat?

A. I did not, before I saw his Excellency General Washington come up and form Colonel Stewart's regiment in the rear of the troops as they were retiring.

Q. Did the troops appear to be retiring in haste?

A. They were retiring moderately.

Q. Were the enemy advancing on our troops as they were retiring?

A. They might have been, but I did not see them; my attention was drawn another way.

Q. How near was General Lee to his troops when you carried the first message from General Wayne to him?

A. He was with his troops about half a mile in the rear of General Wayne.

Q. Where was he when you carried the second message ?

A. He was reconnoitering with a party of our horse close by an orchard, within a mile and a half, to the best of my knowledge, of the town of Freehold.

Q. Had any of his troops advanced towards the enemy during that interval ?

A. None that I perceived, except Butler's and Jackson's regiments.

Q. Had any advanced between the second message and the third ?

A. None that I perceived.

General Lee's question.—Did I give you any reason the second time you came to me, for saying it was impossible the enemy were retiring ?

A. You did not.

Lieutenant-Colonel Samuel Smith being sworn :

General Lee's question.—Did General Scott move his detachment over the morass, and recross it again in a short time, without receiving any orders from me about it, to your knowledge ?

A. Our detachment moved across the morass ; the head of our column made its appearance out of a point of woods, at the front of which was a large plain. A small cannonade began from the enemy. The detachment marched out of the woods into an orchard, where we were a-going to form, when orders came (I do not know from whom), that we should recross the morass and form upon the side of a very woody hill, in rear of the morass, where the whole detachment formed.

Q. Did any troops form with General Scott's detachment after you recrossed the morass ?

A. There were none.

Q. When you advanced across the morass, did you see any men on your right or left?

A. No. We were advancing across the morass, when Major Mercer rode by and said, we shall cut off the enemy's advance, General Wayne is in front of them, and you will immediately be upon their flank.

Lieutenant-Colonel Rhea being sworn :

Q. Did you carry any message from General Wayne to General Lee the 28th of June?

A. I carried one.

Q. What was it?

A. General Wayne ordered me to go to General Lee and to inform him the enemy's troops were all under way, and were moving the Middletown road; and desired me to let General Lee know the sooner he could follow him the better, as he intended to fall on their flank. I delivered the message to General Lee. General Foreman came up and immediately informed me he had orders to attend General Lee to direct the roads. I did not see General Lee afterwards, but returned to General Wayne.

Q. Did General Lee give you any answer to General Wayne's message?

A. I think he did.

Q. What was it?

A. That he would order his troops accordingly. I then mentioned a farther message that General Wayne gave me, which was, that he could not see the right of the enemy's line, and possibly there might be a body of infantry that lay in the woods upon that quarter to take him in. I apprehended he meant General Lee's party. I informed General Lee that the cavalry was in the rear; General Lee made a

reply to that by saying, that the British never left infantry in the rear of cavalry. I farther mentioned, that it would not impede General Lee in his march, as I ordered a body of militia in that quarter to make a discovery if there should be any infantry there.

Q. Did General Lee move with his troops towards General Wayne ?

A. Yes, immediately. General Foreman came up and directed the party the road.

Q. What number of troops were advanced to General Wayne's assistance ?

A. The party that General Lee commanded.

Q. How far did they advance ?

A. I do not know. I left General Lee immediately, and went another road to return to General Wayne.

Q. Did the detachment under General Lee, or any part of it, actually reinforce General Wayne ?

A. I believe they did; but I did not see any of them.

The Court adjourns till to-morrow at eight o'clock.

JULY 13th.

The Court met according to adjournment.

Lieutenant-Colonel Lawrence being sworn :

Q. What was the strength of the corps under the command of General Lee, the 28th of June ?

A. To the best of my knowledge, five thousand men.

Q. Did you fall in with troops under the command of General Lee the 28th of June ?

A. I had been reconnoitering in the open grounds between Carr's house and Monmouth Court-house ; I was there

informed that General Lee, who had been ordered to advance and attack the enemy, had halted his column at about two miles and a half or three miles from the enemy. I immediately went to inquire the cause of it. I found Varnum's brigade repassing a bridge in front of the position which our army afterwards took. I addressed myself to General Lee, and informed him of what I had seen of the enemy; he replied that his intelligence had been so contradictory that he was exceedingly embarrassed; upon my repeating, however, what I had seen, and by appealing to Mr. Malmedie, who was with me, he ordered Varnum's brigade to march on towards the enemy. I then left General Lee, and went forward to reconnoitre in the neighborhood of the Court-house; I did not see him again until the enemy had left the Court-house, and formed with their right towards a wood, and their left in open ground. Soon after, three regiments, commanded by Colonel Stewart, Colonel Livingston, and another colonel, issued from the wood below the Court-house, in order to turn the enemy's left; they had not arrived in open ground long before they were ordered, I think by Major Jamair, Aid-de-Camp to the Marquis de La Fayette, to fall back on the village; I assisted in conducting them to the village, and in forming them in the orchard in front of the village; General Lee was at that time in the rear of these troops, near the house which had been General Grant's quarters. I heard him ask if the troops were formed in the orchard, in such a way as led me to conclude that their retreat to that place had been made by his order. The troops had not been long formed in the orchard before they were ordered, I do not know who delivered the message, but I think it was by General Lee's orders, to retreat and gain the wood; General Lee first

directed that they should be thrown part into the woods on the left, and part into the woods on the right; but afterwards said, that these woods were at too great a distance from each other, and the troops continued retreating without distance between the corps sufficient for forming, and in some disorder, till they arrived at Carr's house. The Marquis de La Fayette was then ordered to form on the right by General Lee; the rest of the troops and cannon continued retreating in disorder through the open fields towards the defile near Wikoff's house. Previous to this, I had received a letter from Lieutenant-Colonel Fitzgerald, written by his Excellency General Washington's order, in which he desired to know how matters were going on in the quarter where I was, and added, the General is ready to support with his whole army. I delivered the letter to General Lee, and asked him to enable me to give an answer to it; he read it over once and hesitated; I repeated my request, to which he answered that he really did not know what to say. After the retreat of our troops from the village and the wood, the enemy pursued as far as the village, where they made a halt. Upon their advancing afterwards towards us, General Lee ordered the whole of our troops to retreat, and they retreated through the defile by Wikoff's house. It was there that I met his Excellency General Washington, who rallied some troops and made a stand. I saw nothing more of General Lee, as he was not with the rear of his troops.

Q. What was the situation of our troops when they first came up with the enemy?

A. I was on the right of our troops, and the first thing I saw was two pieces of cannon under the command of Colonel Oswald, unsupported by any infantry, on the extreme right of our troops. I expressed my uneasiness to Colonel

Oswald on that account, and he desired that I would apply for some troops to cover his cannon. I went in search of General Lee and the Marquis de La Fayette, but could find neither of them at that time. In going in search of them I met three regiments issuing from the wood to turn the enemy's left, but saw none of the rest of our troops, except what I took to be the heads of columns halted in the woods on our left; the main body of General Lee's corps was in these woods on our left; as I was on their right, I am not a judge of their particular situation.

Q. What was the situation of our troops when they first came up with them?

A. When our troops arrived in the presence of the enemy, their right was supported by a wood in front of the village of Freehold, the wood to which the enemy's right extended, was in the forks of the road leading to Middletown and Shrewsbury; their left extended in the open grounds towards the village, and was covered by their cavalry.

Q. How strong did the enemy appear to be?

A. They never appeared to me to consist of more than fifteen hundred infantry and cavalry, or two thousand at the most. The moment which they appeared most numerous to me was, when they were advancing in the open fields between Freehold and Carr's house; they were then advancing in two columns, with their artillery and cavalry between the columns.

Q. Was any disposition made by General Lee for attacking the enemy?

A. I heard General Lee say, that General Foreman was to pilot a column by a road which would lead them to the enemy's front as they were retreating, by which means he was in hopes of cutting them off. That is all I heard of any

disposition being made for attacking the enemy, and why it did not take place I do not know.

Q. When General Lee ordered the troops to retreat from the orchard, did he mention any place to retreat to?

A. He did not, in my hearing.

Q. Were the orders you heard General Lee give the 28th of June, given distinct and clear?

A. I thought General Lee seemed to be a good deal embarrassed, and that his orders were indistinct.

Q. Was the retreat made in an orderly or disorderly manner, and in what particular manner?

A. There was no precise direction given in what manner the troops should retreat, that I know of. Near the Court-house they were in such a huddle that General Portal observed to General Lee, that terrible havoc would be made amongst them by the enemy's grape-shot, if they should advance rapidly upon them, they being in that condition. Afterwards, when our troops were retreating from Carr's house, the artillery of General Lee's corps was sent forward in front of the retreating troops, and there was none left to check the enemy's progress at a very advantageous defile.

Q. What was General Washington's intelligence concerning the disposition of the enemy, previous to the orders given to General Lee?

A. That their rear guard consisted of their grenadiers, light corps and chasseurs. I repeat this from memory. I do not recollect that those were the exact words of the intelligence the General received.

Question by the Court.—What intelligence did you give General Lee relative to the situation and circumstances of the enemy, when you rode back to him?

A. I informed him that while I was on the open ground between Carr's house and Freehold, two small bodies of the enemy, I took them to be regiments, marching by files, advanced in the woods on either hand, which manœuvre, I apprehended, was a final preliminary to their finally quitting the village, or was made with a design of driving away the small detachment of cavalry with which I was.

Question by the Court.—What distance do you think it is from Freehold to Carr's house ?

A. I do not think it is above half a mile.

Question by the Court.—What was the situation of the enemy when the three regiments were ordered to retreat, that had been previously ordered to turn the enemy's left flank ?

A. The enemy had changed their front to the left, and were advancing.

General Lee's question.—What point of time was it I informed you that General Foreman was to conduct a column of mine through the woods, in order to take what we conceived a covering party of the enemy in their rear ?

A. I think you told me that about the time that I reported to you that the enemy was formed.

General Lee's question.—Do you recollect any other conversation I had with you than what you have mentioned, or any complaints I made to you ?

A. I think you said that General Maxwell had removed his troops from a ground where he was ordered to remain; that otherwise the enemy would have been taken in a foreep. I think you made a complaint respecting General Scott, but I do not recollect clearly what it was.

General Lee's question.—Did you impute my embarrassment to my uneasiness, by having been counteracted by

some officers under my command, to the contradictory intelligence I received, or to my want of a personal tranquillity of mind ?

A. I imputed it to want of presence of mind.

General Lee's question.—Are you sure that you saw the two pieces of cannon under Lieutenant-Colonel Oswald unsupported ?

A. I am sure there was not a foot soldier near them, except artillerymen.

General Lee's question.—On which side of the ravine were they ?

A. When I first saw them, they were on the near side, speaking relative to our position; they afterwards crossed and remained unsupported.

General Lee's question.—Are you sure I gave no precise order in the manner the troops should retreat to the different corps ?

A. I never heard myself of any orders being given, nor ever heard of any order being given by inquiring of officers.

General Lee's question.—Were you ever in an action before ?

A. I have been in several actions; I did not call that an action, as there was no action previous to the retreat.

General Lee's question.—What time was it you reported to me the enemy were formed ?

A. I do not know the hour, but it was previous to the manœuvre of the three regiments to the enemy's left, and while part of your troops were marching to the edge of the woods where they afterwards ha'ted.

Q. Did you carry any express order from General Washington to General Lee respecting his attacking the enemy ?

A. I did not.

Q. Did you see General Maxwell's brigade during the retreat?

A. Not in the first part of the retreat. They retreated through the woods.

Q. Had they been opposed to the enemy's right or left?

A. As I was on the right of our troops, I cannot answer particularly relative to their situation.

Lieutenant-Colonel Hamilton.

Q. What was the strength of the corps under the command of General Lee the 28th of June?

A. To the best of my knowledge the strength of the corps under his immediate command at English-Town, was about five thousand rank and file; besides these, Colonel Morgan, with about six hundred men, and General Dickinson at the head of a body of militia, as I understood, of eight hundred men, were subject to his orders for the purpose of co-operation.

Q. Did you fall in with the troops under the command of General Lee the 28th of June?

A. I had been sent by General Washington to reconnoiter the intermediate country between him and the advance corps under the command of General Lee, which I fell in with at some distance beyond the Court-house.

Q. What was the situation of General Lee's troops when you fell in with them?

A. They were issuing out of a wood on the left of the Court-house, in two or three small columns, so near to each other as, in my opinion, to be incapable of displaying, to which also their situation in the woods was an impediment.

These columns were in an oblique direction with respect to the enemy, rather towards their right, and within cannon shot. I heard several questions about artillery, of which there seemed to be a deficiency, and some confusion appeared to exist with respect to their situation and circumstances. I think I understood from General Lee, that some troops had been advanced through the woods towards the enemy's right. I rode up to the front of the columns, from whence I perceived the situation of the enemy, and observed their cavalry were filing off towards their left, as if with design to attempt something on the right of General Lee's troops; this I informed him of, and submitted to him whether it would not be proper to send some troops to counteract that manœuvre of theirs, and turn their flank: he approved the suggestion, and authorized me to give orders for that purpose to a column on the right. The Marquis de La Fayette led this column, to whom I delivered the orders accordingly, which were to wheel by his right, gain and attack the enemy's left flank. After this, I was under the necessity of returning, to report to General Washington what I had done in the execution of his orders. To explain more particularly the situation of General Lee's troops, I would mention some circumstances that I have omitted: There appeared to be a continuation of the wood, out of which the columns were issuing towards the enemy's right; the ground in front of the columns, as far as the enemy, seemed plain and open, without any material obstacles; that which was more immediately occupied by General Lee's troops was something lower than that which was occupied by the enemy; but the difference, in my apprehension, was not so material as to be any considerable impediment to an attack, and the distance between the enemy and advanced

corps was such, that it appeared to be extremely dangerous to change the position by a retrograde movement in the face of the enemy.

Q. What was the situation of the enemy, and numbers ?

A. The enemy were drawn up with their right near a wood, their left on open ground covered by their cavalry, and forming an obtuse angle with the Court-house ; the whole force I saw at that time did not exceed eight hundred infantry and cavalry, to the best of my judgment, if there were so many.

Q. Was any disposition made by General Lee for attacking the enemy that you saw ?

A. Only the one I have mentioned, the sending of troops to attack their left flank, and the one of which I believe I was told by General Lee of sending off troops to attack their right flank. I saw no co-operation with these movements by any general disposition of the remaining troops.

Q. Did you fall in with General Lee's troops afterwards ?

A. I came up with them in their retreat a little time before the stand was made, by which the enemy received their first check. I heard General Washington say to General Lee, that it would be necessary for him (General Washington) to leave the ground and form the main body of the army, while I understood he recommended to General Lee to remain there, and take measures for checking the advance of the enemy ; General Lee replied, he should obey his orders, and would not be the first man to leave the field. I was some little time after this, near General Lee, during which, however, I heard no measures directed, nor saw any taken by him to answer the purpose before-mentioned. I understood a body of our troops, commanded by General Wayne, and under him Colonel Stewart and Lieutenant-

Colonel Ramsay, had been previously thrown into a wood on the left, in front of where I found General Lee, which, I was afterwards told, had been done by direction of General Washington. On the right I saw some pieces of artillery pretty advantageously posted, but destitute of covering and support. Myself and others observed this to General Lee; no troops were sent, that I know of, by his direction to supply the defect, but, on its being suggested that the cannon would certainly be lost if left there in so unsupported a condition, General Lee ordered them to be drawn off. Previous to that, I believe I rode towards Colonel Livingston, who was at the head of a detachment of troops, and strongly advised him to march to the succor of the artillery; this he did not immediately do, but after some conversation between us, I saw him, when at a small distance, marching his detachment to do what I had recommended to him. I now lost sight of General Lee, and rode towards the rear, where I found Colonel Olney retreating with a part of General Varnum's brigade; I pressed him to form his troops along a fence which was near him, which he immediately performed, and had a smart conflict with the enemy. These were all the measures I knew of, taken by any part of the advanced corps to check the progress of the enemy, after my coming the second time to General Lee.

Q. Were the troops, when you fell in with them the second time, retreating in order or disorder, and in what particular manner?

A. The corps that I saw were in themselves in tolerable good order, but seemed to be marching without system or design, as chance should direct; in short, I saw nothing like a general plan or combined disposition for a retreat; in

this, however, the hurry of the occasion made it very difficult to have a distinct conception.

Q. Was there any body drawn up in their rear to cover their retreat that you saw ?

A. I saw no such thing.

Q. Were the orders that you heard General Lee give that day, given distinct and clear ?

A. I recollect to have heard General Lee give two orders : at both times he seemed to be under a hurry of mind.

Q. Did General Lee, to your knowledge, advise General Washington of his retreat ?

A. He did not, to my knowledge.

Q. What was General Washington's intelligence concerning the disposition of the enemy previous to the orders given to General Lee ?

A. When the Marquis de La Fayette first went out with his detachment, I accompanied him. The next day, after we received intelligence that the enemy had changed their disposition, and as they were presenting their rear to us had composed it of the flower of their army, consisting of their whole grenadiers, light infantry and chasseurs of the line. This intelligence I communicated by letter to General Washington the 26th of June, in the evening ; which letter, I have since understood by some gentleman of the family, was received by him.

Question by the Court.—What became of the troops of the advanced corps, after the time you saw Colonel Livingston moving to the succor of the cannon ?

A. It was after this that I assisted in forming the troops under Colonel Olney. In the action they had with the enemy my horse received a wound, which occasioned me a fall, by which I was considerably hurt. This and previous

fatigue obliged me to retire, and prevented my knowing what became of the detachments of the advanced corps after that circumstance.

Question by the Court.—How far from Monmouth Court-house to the place the troops made the first stand?

A. The several events I have related passed so rapidly that I could not at that time form any accurate judgment as to the relative distance of places, and was prevented by indisposition from seeing them after the action.

General Lee's question.—I should be glad to know from what point of action you mean, that you thought it would be dangerous to make a retrograde manœuvre?

A. In the first situation I found the troops beyond Monmouth Court-house, where I first fell in with them, and where, I believe, they first came in view of the enemy.

General Lee's question.—Do you recollect who commanded the two pieces of cannon which you have mentioned were left unsupported, and were afterwards supported, as you say, by your advice?

A. I was not near enough to know the officer; but from what I have since heard, I am led to suppose that Captain Cook commanded them.

General Lee's question.—Did you hear me address myself in person to Colonel Livingston's detachment, entreating them to draw off either to the right or left, from before the cannon, in order to give to them the means of firing upon the enemy's cavalry, which was ranged exactly in front, and presented a very fine object?

A. I heard nothing of the kind; for I was not with that regiment at the time it got up with the artillery.

General Lee's question.—Did you not express in the field

an idea diametrically reverse of my state of mind, from what you have before mentioned in your testimony?

A. I did not. I said something to you in the field expressive of an opinion, that there appeared in you no want of that degree of self-possession, which proceeds from a want of personal intrepidity. I had no idea in my present evidence of insinuating the most distant charge of this nature, but only to designate that there appeared a certain hurry of spirits, which may proceed from a temper not so calm and steady as is necessary to support a man in such critical circumstances.

Lieutenant-Colonel Meade.

Q. What number of men did the advance corps consist of under General Lee the 28th of June?

A. I understood the number under General Lee's immediate command amounted to about five thousand.

Q. Did you fall in with the troops under the command of General Lee the 28th of June?

A. On the first firing General Washington heard, he ordered me to proceed and see General Lee, and know how matters stood. On my way I met with some troops retreating; I rode quickly by them, though I observed that the front of them was a good deal scattered, and no order observed. As I advanced, I found them in much better order, when I met with the Marquis de La Fayette, of whom I inquired where General Lee was; he directed me, and I found General Lee at a house that I think is distinguished by the name of Carr's house. I informed him that General Washington had sent me for information of the situation of matters; his reply was, they were all in confusion; I told him that General Washington would be glad to know the particulars;

that Mr. Harrison Randolph, an intelligent young gentleman, (who was present with me,) would communicate to General Washington whatever General Lee might say ; that I myself would go on and get a view of the enemy. General Lee replied again, that he had nothing to say, but they were all in confusion. I went on towards Monmouth Court-house. Not very far from the enemy I met with General Wayne, who was, I believe, reconnoitering ; some few words passed between us. I told him I would go nearer to the enemy myself, and make the best observations I could. I observed the front of the enemy advancing towards the village ; I attended as much as I could to observe their numbers, and it appeared to me, from the best of my judgment, that those in motion amounted to about seven or eight hundred infantry. As they advanced into the town, I inclined to my right ; these waited till the light-horse came on, when I found it not safe to remain there, and returned. On my way to the Court-house, I met with no troops except a few scattered men ; but on my return I saw Colonel William Butler and Colonel Guest nearly half way between Carr's house and Monmouth Court-house. Colonel William Butler asked me what he should do with the party under his command ? I asked him if he had no superior officer there to apply to for directions ? I think he told me none. I informed him of the situation of the enemy, and as his men were exposed to the sun at that time, and a wood not far from them, I advised him to take them into the shade, as they might be as useful as where they were. I returned, and soon after met with General Washington, and informed him of what I had seen. I remember General Lee's mentioning to me, (the time I do not recollect,) that General Scott had been well posted in a wood, and that he had left it, for what reason he could not tell.

Q. Did you hear General Lee give any orders to his troops while you were with him ?

A. None.

Q. Were there any steps taken by him or others while you were with him, to get the troops in order, that you saw ?

A. None. I was with him but a very short time, and saw but very few troops where he was.

Q. What was General Lee about when you came up with him ?

A. He was sitting on his horse, doing nothing that I saw. There were some gentlemen around him; I do not know what he might be saying to them.

Q. Did General Lee advise General Washington of his retreat, to your knowledge ?

A. I do not know that he did.

Q. Did you hear any conversation pass between General Lee and General Washington the 28th of June ?

A. I heard General Lee remind General Washington that he was averse to an attack or a general engagement, or words to that purport; and I think I heard General Lee also tell General Washington that he was against it in Council, and that while the enemy were so superior in cavalry we could not oppose them.

Q. What time of the day did this conversation take place ?

A. It was shortly after I returned from Monmouth Court-house, and I conjecture shortly after General Washington had got up to General Lee.

Q. When General Lee mentioned to you that they were in confusion, did he express himself in a distinct and clear manner ?

A. I understood him clearly.

Q. How far was it from General Lee, when he said they were all in confusion, to the place the enemy then were ?

A. I should suppose it about a mile.

General Lee's question.—Did you conceive I meant that the confusion arose from certain officers quitting their posts without authority, contradictory intelligence, or some such circumstances, or positively that the troops were in confusion ?

A. I had no idea of the confusion being partial, but that you meant the troops in general were in confusion.

The Court adjourns till to-morrow, nine o'clock.

JULY 14th.

The Court met according to adjournment.

Colonel Ogden being sworn :

Q. Did you march with the troops under the command of General Lee towards the enemy the 28th of June ?

A. Yes. General Maxwell's brigade, to which I belonged, together with General Scott's and General Wayne's detachments, lay at the Sun Tavern, about five or six miles from Allen-Town, on the Monmouth Court-house road, when we received orders to join General Lee at English-Town. We joined General Lee the 27th. The 28th, in the morning, the brigade was ordered to parade and march to Craig's mills; after we had marched a few hundred yards, that order was countermanded, and we were ordered to join the troops that had gone towards the Court-house. We joined them at or near Freehold Meeting-house; we marched on the Monmouth Court-house road from that place about a mile and a half, or two miles, when we took a left-

hand road, which we followed about a half a mile, when we received orders to go to the right-about; we then marched back into the Monmouth Court-house road, which we crossed inclining to the left, till we came to a large clear field. General Maxwell was then in front; I rode to him, and inquired where the brigade was to form; he told me he had no orders to form, and desired I would lead on the brigade in the direction they were then marching. At this time I did not consider it as a retreat, but expected we were going to form. At this time I saw two columns of our men coming up from towards the Court-house. I saw, I think, two or three pieces of artillery halted; the limbers were taken off. I heard mention being made of, I think, Colonel Stewart's regiment being ordered to cover this artillery; the other troops continued to march from the Court-house. At this time I saw a Mr. Wikoff ride up to General Lee, and began giving him some information; he was interrupted by General Lee, and put off. The brigade was still moving on from the Court-house. I rode again to General Maxwell, and asked him where the brigade should form. He said he had no orders for forming them. By this time we had crossed the morass that was between the enemy's encampment and ours the evening after the action, and came near the hedge-row. At this time I saw no disposition for facing the enemy, but understood that General Maxwell had orders to move his brigade near to some cross-road. I begged of General Maxwell to let me halt my regiment; he consented, and I drew them up on the left of the hedge-row, in a piece of woods, expecting to have had an opportunity of covering our men retreating. After I had been there six or eight minutes, Major Ogden came to me; he asked me how he could be of the most service to me; I told him by recon-

noitering the enemy and giving me notice. As long as my right flank was secure, on my left was a morass, I apprehended no danger from that quarter. A few minutes after this, one of General Lee's aids came to me, and told me that General Lee expected that I would not leave that ground; I told him that he might assure General Lee that I should not leave it as long as my right flank was secure. In a short time after this, there was a pretty smart firing of musketry on the right, in my front, immediately on which, a number of our men that had been engaged, retreated towards me in a direct line from the enemy; immediately on which I saw the enemy had crossed the morass on my left, and was moving down on that quarter, on which I ordered a retreat.

Q. Who did the order come from to go to the right-about?

A. I do not know. It came to me from Colonel Dayton.

Q. Were the two columns of our men that you saw retiring, retiring in order or disorder?

A. In order.

Q. Did you receive any other order from General Lee the 28th of June, besides the order you received by his aid?

A. No.

General Lee's question.—Do you conceive I prevented Mr. Wikoff giving me information, and sent him off in a huff?

A. I thought so. Mr. Wikoff in some measure apologized, as if he had looked upon it rather as an intrusion, and turned off.

General Lee's question.—Did you hear the conversation between me and Mr. Wikoff?

A. I did not. There was no conversation. He came up as if to give you information, and you put him off, as I have before mentioned.

Lieutenant-Colonel Fitzgerald.

Q. What was the strength of the advance corps under the command of General Lee the 28th of June ?

A. About five thousand, according to the best information I could receive.

Q. Did you fall in with the troops under the command of General Lee the 28th of June ?

A. I did. In the morning three other aids belonging to General Washington had been sent on other business; I was the only one that remained with him, until we went about two-thirds of the way from English-Town to where the action was; Colonel Hamilton then returned and pointed out to General Washington the necessity there was of sending part of the army upon our right, in case of an accident to the troops under the command of General Lee, or the enemy's attempting to turn that flank. General Knox came up soon after; he urged the necessity of it in very strong terms, and, to the best of my recollection, made use of the word confusion, which I understood he meant to be in the troops under General Lee; that when he left them some confusion appeared; accordingly a part of the army was ordered that way. Colonel Harrison and myself then requested leave of the General to ride on to see what situation things were in; we had not got far before we met many scattering troops; upon asking where they were going they said they were ordered back to refresh themselves. We then met other large parties coming off, some in tolerable good order, others in great confusion. We asked the officers,

sometimes together, sometimes separately, what could be the cause of it, or where they were going to? The general answer was, that they were ordered to retreat, but did not know to what place. When we came towards that defile on the left of Mr Wikoff's house, where the first stand was made, we there met a great many coming off, rather in disorder. A French gentleman, who I believe to be Colonel Garion, second in the Engineer Department, told me that our men were retreating in great disorder, and the enemy pressing close upon them; that that was an advantageous piece of ground, and begged I would give orders to stop two pieces of cannon there, that were just passing, in order to cover the retreat of our men. I told him I was not authorized to give any orders, and Colonel Harrison and myself proceeded towards Carr's house. I there saw General Lee sitting on horseback at the fence, and the enemy advancing, at I think, better than half a mile distance. I had some talk with Captain Mercer, one of General Lee's aids, and, among other questions, asked him the reason of the retreat. I do not recollect the words of his answer, but he gave me to understand that we were all very much deceived, and that instead of finding a covering party as was expected, the enemy's whole force was drawn up to receive them. Some few troops were drawn up in the rear of the fence where General Lee was; they soon after marched off, by whose order I do not know. Colonel Harrison and myself remained reconnoitering the enemy; he asked me if I thought there could be more than a thousand of them. I told him I believed there were from twelve to fifteen hundred. About this time General Lee rode back towards that defile, with some scattered troops; I then advanced through a grain field, where Colonel Dehart was

taking a view of the enemy, and remained there until we thought it imprudent to stay any longer, as the British light-horse began to come pretty near. Previous to this, while we were at the fence, Colonel Harrison asked a number of gentlemen who were round us, if they understood whether or no General Washington had any information of the situation of things ; upon no answer being made, he proposed that he or I should return and acquaint him with what I saw. He soon after repeated this proposal, upon which I pressed him to return and give the General an account. After leaving the grain field, I rode back towards the defile, and after crossing it, found General Washington on the high ground, giving orders for rallying some troops towards opposing the progress of the enemy at this point. He inquired for some cannon, and was told they had gone forward. He then ordered some pieces to be immediately brought back. Upon my coming up to him, he asked me if I was able to find out the meaning of the retreat. I told him not, that I expected that would be a subject of inquiry for a future day, but in the mean time, some great exertions must be used, as the enemy were pressing on. By this time Lieutenant-Colonel Oswald returned with, I believe, two pieces of cannon, and the enemy's cannon appeared on the other side of the run ; General Washington ordered the troops under Colonel Stewart and Lieutenant-Colonel Ramsay to incline to their left, that they might be under cover of a corner of woods, and not exposed to the enemy's cannon that were in their front. He then retired, as I supposed, to give orders for the formation of the other part of the army. A warm cannonade then began, two or three pieces of cannon being brought up to the assistance of Lieutenant-Colonel Oswald. Lieutenant-Colonel Oswald then rode up

to me, told me that his men were exceedingly much fatigued, and would not be able much longer to work the pieces; I referred him to General Knox, who was within a small distance. Soon after this a heavy fire began between the troops under Colonel Stewart and Lieutenant-Colonel Ramsay and the advanced troops of the British army, in the skirt of the woods before-mentioned. Colonel Oswald rode up to me again, seemed much embarrassed and distressed for the preservation of his pieces, and said he must certainly lose them, as he had no infantry for their support. By this time Colonel Stewart and Lieutenant-Colonel Ramsay's men were obliged to give way, and the enemy pressed on close, but were checked by a detachment which I supposed to be under the command of Colonel Livingston. I then turned to the rear of Lord Stirling's line, where General Washington was; there I saw General Lee; Captain Mercer came up and asked me if I was now convinced that the whole of the British army was there? To the best of my recollection, I told him I had formed no such opinion.

Q. How strong did the enemy appear to be as they were advancing?

A. I think from twelve to fifteen hundred. I do not recollect, whether my idea (at that time) took in their cavalry or not.

Q. Did you hear General Lee give any orders to the troops when you saw him at Carr's house?

A. I think from my going there until General Lee retired off that field, was from twenty minutes to one-half an hour; during which time I heard no orders given, nor saw any plan formed or adopted for checking the progress of the enemy.

Q. Did General Lee appear tranquil or disturbed?

A. General Lee appeared serious and thoughtful.

Q. Did you hear any conversation take place between General Lee and General Washington that day ?

A. No. General Lee had rode up to General Washington before I returned, as I afterwards understood.

Q. Were the troops you saw retreating in order or disorder, and in what particular manner ?

A. They mostly retreated rather in disorder, which appeared to me to have proceeded as much from being ignorant of the place they were to go to, as from the retreat itself. Some were retreating in column and some scattered.

Question by the Court.—Did you understand there was any covering party appointed to the artillery of Lieutenant-Colonel Oswald's that day ?

A. I did not.

Lieutenant-Colonel Harrison being sworn :

Q. How strong was the detachment under the command of General Lee the 28th of June ?

A. I never saw a regular return of that detachment, but understood it amounted to about five thousand rank and file, exclusive of the corps under Colonel Morgan.

Q. Did you fall in with the troops under the command of General Lee the 28th of June ?

A. On the 28th of June, as one of his Excellency's suit, I marched with him till we passed the Meeting-house near Monmouth, to where the roads forked. When we came to where the roads forked, his Excellency made a halt for a few minutes, in order to direct a disposition of the army. The wing under General Green was then ordered to go to the right to prevent the enemy's turning our right flank. After order was given in this manner, and his Excellency

was proceeding down the road, we met a fifer, who appeared to be a good deal frightened. The General asked him whether he was a soldier belonging to the army, and the cause of his returning that way; he answered, that he was a soldier, and that the Continental troops that had been advanced were retreating. On this answer the General seemed to be exceedingly surprised, and rather more exasperated, appearing to discredit the account, and threatened the man, if he mentioned a thing of the sort, he would have him whipped. We then moved on a few paces forward, (perhaps about fifty yards,) where we met two or three persons more on that road; one was, I think, in the habit of a soldier. The General asked them from whence they came, and whether they belonged to the army; one of them replied that he did, and that all the troops that had been advanced, the whole of them, were retreating. His Excellency still appeared to discredit the account, having not heard any firing except a few cannon a considerable time before. However, the General, or some gentleman in company, observed that, as the report came by different persons, it might be well not wholly to disregard it. Upon this I offered my services to the General to go forward, and to bring him a true account of the situation of matters, and requested that Colonel Fitzgerald might go with me. After riding a very short distance, at the bridge in front of the line that was afterwards formed on the heights, I met part of Colonel Grayson's regiment, as I took it, from some of the officers that I knew. As I was in pursuit of information, I addressed myself to Captain Jones, of that regiment, and asked him the cause of the retreat, whether it was general, or whether it was only a particular part of the troops that were coming off? I do not precisely recollect the answer

that he gave me ; but I think, to the best of my knowledge, he said, yonder are a great many more troops in the same situation. I proceeded and fell in with Lieutenant-Colonel Parke ; these troops were rather disordered. The next officer that I was acquainted with was Lieutenant-Colonel William Smith. I addressed myself to Colonel Smith, and asked him what was the cause of the troops retreating, as I had come to gain information ? who replied that he could not tell, that they had lost but one man. I then proceeded down the line, determined to go to the rear of the retreating troops, and met with Colonel Ogden. I asked him the same question, whether he could assign the cause, or give me any information why the troops retreated. He appeared to be exceedingly exasperated, and said, By God! they are flying from a shadow. I fell in immediately after with Captain Mercer, who is Aid-de-Camp to Major-General Lee, and, expecting to derive some information from him, I put the same question to him. Captain Mercer seemed, by the manner of his answer, (as I addressed myself to him, saying, For God's sake, what is the cause of this retreat ?) to be displeased ; his answer was, if you will proceed, you will see the cause ; you will see several columns of foot and horse. I replied to Captain Mercer that I presumed that the enemy was not in greater force than when they left Philadelphia, and we came to that field to meet columns of foot and horse. The next field-officer I met was Lieutenant-Colonel Rhea, of New Jersey, who appeared to be conducting a regiment. I asked him uniformly the same question for information, and he appeared to be very much agitated, expressed his disapprobation of the retreat, and seemed to be equally concerned (or perhaps more) that he had no place assigned to go where the troops were to halt. About this time I met with Gene-

ral Maxwell ; and agreeable to the General's direction to get intelligence, I asked him the cause. He appeared to be as much at a loss as Lieutenant-Colonel Rhea, or any other officer I had met with ; and intimated that he had received no orders upon the occasion, and was totally in the dark what line of conduct to pursue. I think nearly opposite to the point of wood where the first stand was made, I saw General Lee. I do not recollect that anything passed between us, but General Lee's asking me where General Washington was ; and my telling him he was in the rear advancing. I then went to the extreme of the retreating troops, which were formed of Colonel Stewart's regiment, and found them in the field where the enemy retreated to, just beyond the defile. I addressed myself to General Wayne, General Scott, and, I believe, to Colonel Stewart, and to several other officers who were there ; and asked General Wayne the cause of the retreat, who seemed no otherwise concerned than at the retreat itself, told me he believed it was impossible to tell the cause ; and while we were standing together, which I supposed might be three or four minutes, the enemy's light infantry and grenadiers came issuing out of the wood, pressing very hard upon us at about two or three or four hundred yards distance. The troops that had been halted were put in motion. I had some conversation with General Wayne relative to a disposition of the troops, if nothing could be done to check the advance of the enemy, who seemed to consider the matter exceedingly practicable, provided any effort or exertion was made for the purpose, alleging that a very select body of men had been that day drawn off from a body far inferior in number. General Wayne then told me, that as General Washington might not be perfectly well acquainted with the

country, that it might be well to advise him of a road, if I met him, that led by Taylor's Tavern, on which it would be necessary to throw a body of troops, in case the enemy should attempt to turn our right flank. I, upon this, left General Wayne, and galloped down the line to meet General Washington, to report to him the state of our troops, and the progress of the enemy. I met General Washington at the point of wood, or near it, where the first stand was made, and reported to him what I had seen, adding that the enemy were pressing hard, and would be upon him in a march of fifteen minutes; which (I have since understood) was the first information he received of the enemy being so close upon our retreating troops. We remained there a few minutes until the extreme rear of our retreating troops got up. The General looked about and said that it appeared to be an advantageous spot to give the enemy the first check. General Wayne came up at the same time, seemed to be anxious for the measure, and thought it a very good place also. General Washington, upon this, called for one or two battalions to check the enemy at that spot, and asked what officers he should use upon the occasion. General Washington seeing Colonel Ramsay, called on him, and told him he was one of the officers he should depend upon that day to give the enemy a check, and seeing Colonel Stewart, I believe he addressed himself to him in the same manner. The battalions were formed, I believe, under the direction of General Wayne; and General Washington observed, that he would ride back and make a disposition of the army, while these troops acted to check the advance of the enemy. There were, at the same time, two pieces of artillery, I think, ordered to form upon the right of these troops; I believe they were ordered to form by General Washington,

as I heard him to call out for some artillery at the same time he gave orders for the battalions. In a little time the troops inclined to the left, advancing still under the direction of General Wayne, into a piece of woods, and there they stood and received the fire of the enemy. Much about this time, near the point of woods, if I mistake not, I saw General Lee, and I remember some conversation passed between him and Colonel Hamilton. From the tenor of General Lee's question to Colonel Hamilton, Hamilton had either suggested some measure to General Lee, which Hamilton conceived proper, and which was disapproved by General Lee, or had condemned some measure that had been adopted by General Lee; because I recollect General Lee asked Hamilton, Do I appear to have lost my senses, or do I appear to be out of my senses? or a question of that import. The troops, in a short time, were driven out of the wood and we retreated; the two pieces of artillery that were placed on the right, I saw left entirely unsupported and uncovered, as the two battalions to which they were attached had inclined to the left and gone into the wood. The two pieces of artillery began to retreat and fell back the distance of thirty or forty yards, when it was observed, as I think, by some gentlemen, that there would be great danger of the British troops turning the point of woods and falling upon the right flank of the two battalions under Colonel Stewart and Lieutenant-Colonel Ramsay. Colonel Hamilton and some other persons rode up, and requested the officer to advance again to the ground they had left with the artillery, for the purpose of firing upon the enemy. I saw at this time, Lieutenant-Colonel Oswald, of the train, who appeared to be exceedingly anxious for the security of his pieces there being unsupported, and I think he asked

some gentlemen what he should do, or could do with the pieces in that situation ; he was referred to General Knox, who was but a very small distance from us. General Knox seemed to be under the same embarrassment, and thought they were in a very dangerous condition ; but upon its being observed by some gentlemen that these pieces would be of infinite advantage to check the progress of the enemy, he called out for some troops to cover them, and called upon his friend, Colonel Harry Jackson, by name. Whether any troops came or not I do not recollect.

Q. Did you hear General Lee give any orders that day ?

A. I do not recollect to have heard General Lee give any order that day. I was with General Lee twice, and then but a very short time, perhaps not above five minutes.

Q. What was General Washington's intelligence concerning the disposition of the é enemy, previous to his orders to General Lee ?

A. Before the army marched from Cranberry, General Washington was informed, by a letter from Colonel Hamilton, on the 26th of June, who was on a detachment with the Marquis de La Fayette ; his expressions were, from what I have heard and seen, the enemy have made a very judicious disposition. They have placed their baggage in front, and the whole of their flying army in the rear, with a strong rear guard of a thousand men, at four hundred paces distant ; adding, that unless the army were in supporting distance, he did not think it advisable for that detachment to attack them. This is the substance of the intelligence.

Question by the Court.—Did you discover or understand, upon your advancing towards the enemy, that they were in great force ?

A. I do not know what number of the enemy might have

presented themselves to persons who had been as far down as Monmouth Court-house, or below where I was, but I did not myself, according to the best of my judgment, see two thousand of the enemy that day, including their cavalry, and taking in a column that advanced towards our left.

Doctor M'Henry being sworn :

Q. What capacity were you in in the field the 28th of June ?

A. As one of his Excellency General Washington's suite.

Q. Did you see General Lee the 28th of June ?

A. I saw him previous to his retreat and after his retreat.

Q. Where did you see him ?

A. On the road with his troops, they on their march towards the enemy, a little on the left of Monmouth Court-house, but how far to the left, whether on this side or beyond it, I cannot fix by description ; I told him I had come from the General, and asked him if he had any information to send back by me, as I was returning again ; he desired me to inform his Excellency that the enemy did not appear to well understand the roads—that the route he was then on cut off two miles—that the rear of the enemy was composed of fifteen hundred or two thousand—that he expected to fall in with them, and had great certainty of cutting them off. I then took my leave of General Lee, and had got above twenty yards from him when he called M'Henry, and I returned to him. You will also, said General Lee, tell his Excellency that General Wayne and, I think, Colonel Butler, are amusing them with a few loose cannon shot, while I perform this route ; say also to him

that the enemy are constantly changing their front, which is a usual thing with those who retreat. I then left the General; he spoke it with a fixed and firm tone of voice and countenance, which suggested to me the certainty of succeeding, and I made the report accordingly to General Washington.

Q. Where did you see General Lee after the retreat?

A. While General Washington was forming the regiments under Colonel Stewart and Lieutenant-Colonel Ramsay, General Lee came up. General Washington, upon his approaching, desired of General Lee the cause of the retreat of the troops? General Lee hesitatingly replied, sir—sir. General Washington then repeated, I think, the question a second time; I did not clearly understand General Lee's reply to him, but can just remember the words confusion, contradictory information, and some other words of the same import. The manner, however, in which they were delivered, I remember pretty well; it was confused, and General Lee seemed under an embarrassment in giving the answer. I saw General Lee where Lord Stirling was formed, a little after the time Colonel Stewart and Lieutenant-Colonel Ramsay had given way; he there mentioned to his Excellency and some others that were round him, that effects such as happened to-day, would always be the consequence of a great superiority in cavalry; General Lee said something at the same time of his being against the measure, but what measure it was I do not certainly know; I saw General Lee again at English-Town, when I was ordered to go and send the baggage forward, in case the day should prove unlucky. The General was on horseback, observing to a number of gentlemen who were standing round, that it was mere folly or madness, or words that conveyed to me a meaning of

that kind, to make attempts against the enemy where they possessed so great a superiority in cavalry, and that, under such circumstances, we could not be successful. I then returned to his Excellency.

General Lee's question.—When I expressed a disapprobation of committing our troops to the enemy when they had so great superiority of cavalry, did I not add, in a level country?

A I left you abruptly, and while you were speaking to others, you might have mentioned it to them; I did not hear it.

Colonel Tilghman being sworn :

Q. Did you see General Lee the 28th of June?

A. On the 28th of June, as General Washington was advancing with the main body of the army between English-Town and Freehold Meeting, he met with Colonel Hamilton, who told him he had come from our advance corps, and that he imagined from the situation he had left our van and the enemy's rear in, they would soon engage. He advised General Washington to throw the right wing of the army round by the right, and to follow with the left wing directly in General Lee's rear to support him. He gave reasons for this disposition, which were thought good. While order was giving to make the disposition, a countryman rode up; on being asked where he came from, he said, from towards the Court-house; he was asked what news? he said he heard our people were retreating, and that that man, pointing to a fifer, had told him so. General Washington not believing the thing to be true, ordered the fifer under the care of a light-horseman, to prevent his spreading a report and damping the troops who were advancing; but that certain intelli-

gence might be gained, Colonel Fitzgerald and Colonel Harrison were sent forward; General Washington then rode on himself, and between Freehold Meeting and the morass that parted the two armies during the day, he met two regiments—Colonel Grayson's and Colonel Patton's; Captain Moore, I think, was at the head of Grayson's regiment; upon the General asking him where these troops were going, the officer at first said they had been very much fatigued, and had been ordered off to refresh themselves; he then said the particular duty they had been upon was to secure two pieces of cannon which had been left upon some part of the field in danger. The General then desired him to take his men into a wood near at hand, as they were exceedingly heated and fatigued, and to draw some rum for them, and to keep them from straggling. The General asked the officer who led, if the whole advanced corps were retreating? He said he believed they were. He had scarcely said these words when we saw the heads of several columns of our advance corps beginning to appear. The first officers the General met were Colonel Shreve and Lieutenant-Colonel Rhea, at the head of Colonel Shreve's regiment. The General was exceedingly alarmed, finding the advance corps falling back upon the main body, without the least notice given to him, and asked Colonel Shreve the meaning of the retreat; Colonel Shreve answered in a very significant manner, smiling, that he did not know, but that he had retreated by order, he did not say by whose order. Lieutenant-Colonel Rhea told me that he had been on that plantation, knew the ground exceedingly well, and that it was good ground, and that, should General Washington want him, he should be glad to serve him. General Washington desired Colonel Shreve to march his

men over the morass, halt them on the hill, and refresh them. Major Howell was in the rear of the regiment; he expressed himself with great warmth at the troops coming off, and said he had never seen the like. At the head of the next column General Lee was himself, when General Washington rode up to him, with some degree of astonishment, and asked him what was the meaning of this? General Lee answered, as Dr. M'Henry has mentioned, Sir, sir. I took it that General Lee did not hear the question distinctly. Upon General Washington's repeating the question, General Lee answered, that from a variety of contradictory intelligence, and that from his orders not being obeyed, matters were thrown into confusion, and that he did not choose to beard the British army with troops in such a situation. He said that besides, the thing was against his own opinion. General Washington answered, whatever his opinion might have been, he expected his orders would have been obeyed, and then rode on towards the rear of the retreating troops. When General Lee mentioned that his orders had been disobeyed, he mentioned General Scott particularly; he said General Scott had quitted a very advantageous position without orders. General Washington had not rode many yards forward from General Lee, when he met Lieutenant-Colonel Harrison, his secretary, who told him that the British army were within fifteen minutes march of that place, which was the first intelligence he received of their pushing on so briskly. The General seemed at a loss, as he was on a piece of ground entirely strange to him; I told him what Lieutenant-Colonel Rhea had told me of his knowing the ground; he desired me to go and bring him as quick as possible to him; to desire Colonel Shreve to form his regiment on the hill, which was after-

wards our main position, and, I think, to get the two small regiments of Grayson's and Patton's there also, that the line might be formed as quick as possible. I conducted Lieutenant-Colonel Rhea back to the General; when I got there, I saw Colonel Livingston beginning to form his regiment along the hedge-row, where the principal scene of action was that day. Our retreating columns took up a great piece of ground, and there was one upon our left so far that the General thought it was a column of British troops endeavoring to turn our left: he desired General Cadwallader and myself to ride over and see what troops they were. I then left the hill, and did not see General Lee afterwards.

Q. Were our troops that you saw retiring, retiring in order or disorder, and in what particular manner?

A. The two regiments we first met, were in some disorder, the men were exceedingly heated, and so distressed with fatigue they could scarcely stand; the others, so far as their keeping their ranks in battalion or brigade, I think, were in tolerable good order; but as to columns respectively in great confusion, as I am convinced a line could not have been formed of them in that situation. They neither kept proper intervals, nor were the heads of columns ranged.

General Lee's question.—Was there a defile in the rear?

A. There was.

The Court adjourns till to-morrow, nine o'clock.

JULY 15th.

The Court met according to adjournment.

Doctor Griffiths being sworn:

Q. Had you any conversation with General Lee the 28th of June respecting the affairs of the day?

A. I recollect perfectly well overtaking General Lee the 28th of June, about one hour and a half after the action commenced, about half way between the Meeting-house and English-Town, as near as I can recollect, as he was retiring at the head of his column. I asked the General, when I first overtook him, what appearance or what face things wore? his answer was, as I expected. I heard the General repeat the same to a number of persons at English-Town, who had asked him the same question, in almost the same words. From what followed in conversation, I thought his expectation was, that the day would be disgraceful to the American arms; and as sure as we did attack, we would be beat, and he went on to assign reasons for it; the superiority of the enemy in point of discipline, that they outflanked us in cavalry, and that they outmanœvered us, were urged by General Lee. General Lee asserted that his advice had ever been contrary to a general action, for the reasons I have already mentioned, and that it was impolitic or imprudent to risk anything, when we were sure of succeeding in the main point; that the connection with France would secure our independency, and the American arms wanted no addition to their reputation. General Lee asked me what reasons could be assigned? I told him it might add some lustre to their arms; he said they needed none: he added, that it had been determined upon in a council of officers, not to risk anything by an attack; notwithstanding that, he had that morning received positive orders from General Washington to attack. General Lee likewise was of opinion that Congress would be offended at it, and asked me what I thought Congress would think of it; I understood from him that it was contrary to their sense. I recollect General Lee's complimenting the offi-

cers and men on their conduct that day, and he appealed to them for his conduct whether he did not appear cool and possess himself. General Lee also mentioned he was going to English-Town by order of General Washington, to possess himself of the heights, in case any disaster should happen to the army. I understood General Lee, he seemed to think it would be taken amiss, or had been, I don't recollect which; that he had retired that day, and he appealed to the officers whether he was disconcerted, or whether he was cool and firm.

Lieutenant-Colonel William Smith being sworn :

Q. Were you with the troops under the command of General Lee, the 28th of June ?

A. Yes.

Q. Did you receive any orders from General Lee the 28th of June ?

A. Yes ; from General Lee and his Aid-de-Camp Major Mercer. The first order I received was from Major Mercer, after Colonel Jackson's corps were retiring from the field they were cannonaded on ; we marched by the left, and in consequence the lead of the battalion fell to me. I met Major Mercer as I was crossing a morass, where the grenadiers took the lead, and I fell in the rear of the regiment, who desired me to proceed on and form on the left of the line ; that General Lee had formed in the wood ; we retired nearly upon the same road that we advanced, crossed the road and went into the field in front of the field where the battle was fought, where I saw a considerable number of troops retiring, and a body upon our left forming. General Lee rode up to the regiment and spoke in these words : This blue regiment must form behind this fence ; the fence

was then in our rear. I told him the commanding officer was in front, if the orders were given there the whole regiment would halt; he insisted upon the regiment's being formed immediately. I then stepped out and ordered them to the right-about, and marched them to the fence, where I formed them; but, to my great surprise, after they were formed, I found there was but one-half of the battalion, occasioned, I imagine, by their not heeding me in front. Colonel Jackson then came to me, and demanded the reason of my dividing the regiment. I told him that it was by General Lee's order that I had marched the men to that post, and had no idea of making a separation; he then ordered me to file off and join the other half of the battalion, which I obeyed. Upon Colonel Jackson's ordering me off, General Lee rode up, seemingly angry at our movement, being contrary to his direction, clapped his hand upon his sword, and demanded the reason of the regiment's leaving the post. I was then in the rear, ran forward to General Lee, told him I thought an apology necessary, that I had fully obeyed his orders, but received counter orders from my superior officer, which I was obligated to obey. Colonel Jackson and General Lee then had some conversation together, and this half of the regiment proceeded on to join the other. Before I could overtake the front of the regiment, General rode up to me a second time, and ordered me to form the line there; being then in the open field, General Lee told me he meant to effect a retreat, and I was stationed there to cover it. I then sent off Captain Jarvis, of Colonel Jackson's regiment, to Major Taylor, who led the right wing of the regiment, with orders to march it back again and join me immediately, which he did. Some time after we were formed, I observed his Excellency General Washington

riding up ; I rode up to him, told him that General Lee had ordered me to form the line there, that my men were fatigued, and the sun very hot, begged his permission to advance to a wood, about four or five hundred yards in our front, where my men would be screened from the rays of the sun, and have the advantage of the cover of the wood if the enemy should advance ; his Excellency thought it best, and desired me to lead the regiment on ; before I reached the wood, Colonel Jackson came up to me and asked me the reason of my marching the regiment ; I gave him my reasons, and he ordered me to file off and retire ; then led us off the field to English-Town.

Q. Where the troops you saw retiring, in order or disorder ?

A. They marched in order, as to their own corps, though the different corps were so close together that the line, in my opinion, could not be formed, without considerable confusion.

Q. Did you find the line in the wood that Major Mereer ordered you to retire to, and form on the left of ?

A. I am led to imagine, that by the route we took, we accidentally avoided the post Major Mereer intended, as we had no person with us to direct to us the spot where the troops were forming.

General Lee's question.—Do you recollect whether the country was of such a nature, there being so many defiles, as to admit of the different corps' marching in columns at such distances as to be formed into lines ?

A. I recollect that the troops, previous to my taking this observation, had passed a defile, which might have been the occasion of their situation, but upon the ground they then were I think there was room sufficient.

General Lee's question.—Do you recollect any defile after the one you have mentioned in our front as we were retiring ?

A. The defile in the rear of the field of action, which was in our front as we were retiring, is the only one I know of.

General Lee's question.—At the several times you saw me, did I appear to be possessed of myself, being calm and distinct ?

A. Perfectly so.

Question by the Court.—What occasioned your regiment first to retire ?

A. We were in the open field, exposed to the cannon of the enemy, without any apparent probability of our having the shot returned, I observed the front of the battalion inclining to the left, to take shelter in a copse of wood, which, when we had gained, I went up to Colonel Jackson, asking him what his orders were ; he told me he had none ; I begged him to send for some immediately ; he then left me. I formed the regiment on the right, and presented a front to the enemy. Colonel Jackson then returned and desired me to lead the regiment over the morass upon an opposite height ; I asked him if he had any particular orders for it ; he answered he had not, but thought it best : I begged him not to stir without orders ; he then left me a second time, returned in the space of ten or fifteen minutes, and repeated his request. I asked him if it was his orders for me to lead the regiment ; he told me he thought it most proper, and begged I would lead the regiment over ; I then went to the left of the battalion, and led the regiment not over the morass, but through it, which brought us a little in the rear

of the ground we had left, instead of going to the ground he requested. About this place we met Major Mercer.

Question to Doctor Griffiths.—Do you recollect who the officers were General Lee appealed to for his conduct the 28th of June, at English-Town, and complimented on their conduct?

A. He only spoke generally, both of men and officers, but appealed to the officers in justification of himself.

Q. Do you recollect who the officers were who he appealed to?

A. I do not recollect any individuals.

Q. Was there any reply from the officers?

A. There were no other officers present but two light-horse officers, who were riding behind the General; whether they heard the conversation or not I don't know; I don't recollect any reply; there could have been none, because they were not appealed to. I understood it generally the officers under his command.

Question to Colonel Stewart.—What was the situation of the detachment in point of ground, when you were nearest to the enemy, and in view of them?

A. On the left of the detachment was a ravine and a copse of woods, out of which the detachment had issued; in front it appeared to be a plain of large extent, neither, in my opinion, interspersed by hills or woods; the plain continued on our right, until you come to the road leading from the village of Freehold to Middletown, on the right of which road ran a fence; in the rear of the right, as we were drawn up towards the enemy, stood the village of Freehold; to the centre and left the ravine seemed to extend. My idea of the ravine is, that it began a little to the left of the village

and extended to the left past the place we had issued out of the woods.

Question to Colonel Stewart.—How did the enemy appear to be situated in point of ground ?

A. Their situation in point of ground appeared to be the same as the ground we were drawn up on, excepting that the woods appeared to me to be nearer our left than they were to the enemy's right.

Question to Colonel Stewart.—Did the troops you were with retreat in order or disorder ?

A. In a disorderly manner. On orders being given to the different regiments to retreat to the village, the enemy were so near us in front that the regiments seemed to be desirous to gain the village with expedition. On this account the regiment on the left inclined, while they advanced in front, on the regiment which should have been on the right. My being farther advanced at that time, occasioned the orders coming later to me than they had done to the other regiments. When I attempted to gain my position in the detachment under the particular command of General Wayne, I found the two regiments so close together that there had been no room left for me. I requested the officers who I saw with the other regiments to incline to the right and left, and allow me to gain my proper position. During this conversation, Colonel Laurance came up, and begged of us to lay aside trifling disputes concerning rank at so critical a period. I immediately ordered my regiment to incline to the left, which brought me on the right of the whole detachment under the command of General Lee. On my forming I was in that situation and entirely separated from the other two regiments during that day.

Question to Colonel Stewart.—By whose orders was your

detachment formed when you first made a halt and engaged the enemy ?

A. By the particular order of General Washington in person.

Question to Colonel Stewart —Did you receive any order at that time from General Lee or either of his aids ?

A. I received no order from General Lee at that time or from either of his aids.

The Court adjourns till Friday, at nine o'clock, the 17th instant, to the house of Mr. Kennedy, at Peek-Kill.

JULY 17th.

Not a sufficient number of members attending at Peek-Kill, the members present, being a majority of the Court, adjourned till to-morrow at nine o'clock.

JULY 18th.

The Court met at Peek-Kill.

Brigadier-General Maxwell being sworn :

Q. Did you march with the troops under the command of General Lee the 28th of June ?

A. I did.

Q. Did the troops under the command of General Lee attack the enemy the 28th of June ?

A. I was sent for to General Washington's quarters the evening of the 27th of June. General Lee and General Wayne were there. I understood by what General Washington said to General Lee, that General Lee was to attack the rear of the British army as soon as he had information that the front was in motion or marched off; General Washington further mentioned, that something might be done by

giving them a very brisk charge by some of the best troops. General Washington mentioned something about my troops, that some of them were new, and the want of cartouch boxes, and seemed to intimate that there were some troops fitter to make a charge than them. General Washington further recommended that we should go to General Lee's quarters, at six o'clock; the orders I got there were to keep in readiness to march at a moment's warning, in case the enemy should march off, and recommending that there should be no difference respecting rank, or which should be called to the front, right or left. In the morning of the 28th, I think, after five o'clock, I received orders from General Lee to put my brigade in readiness to march immediately: I then ordered the brigade to be ready to march, and went and waited on General Lee; he seemed to be surprised that I was not marched, and said there were orders sent previous to that order, to put the brigade under orders to march immediately. General Lee informed me that some were already marched, and that I must stay until the last and fall in the rear. I ordered my brigade immediately to the ground I understood I was to march by, and found myself to be both before General Wayne and General Scott, and halted my brigade to fall in the rear: when about one-half of the troops were by, orders came by one of General Lee's Aids to march my brigade by the road towards Craig's mill, till I met with the first direct road that led away to the Court-house, and to halt there until further orders, as it was suspected that the enemy were moving some part of their troops that way. By the time I had got about half a mile towards that place, one of General Washington's Aids gave orders to the rear of the brigade that I need go no further that way, but to return to my old ground, and that the front

of the enemy was certainly marched off, (the officers came forward and informed me of this order,) which I did. I came back to my former station, and waited there a considerable time before General Wayne and General Scott's troops got past me; then I marched in the rear; there were three pretty large halts made before I got up within a mile of the Court-house. At that place the Marquis de La Fayette came to me, told me it was General Lee's wish that we should keep as much in the woods as possible; and that as I had a small party of militia horse, desired that I would keep those horse pretty well out upon my right, to observe the motions of the enemy that they might not surprise us; I think it was thereabouts that I heard some firing of cannon and small arms. The march was pretty rapid from that place, and I followed up General Scott until I got the front of my brigade in the clear ground. I found when I got the front of my brigade in the clear ground, that the clear ground made an angle with a morass on my right, and a thick brush on my left. General Scott was formed in my front, in about one hundred yards; an orchard was in the front of him, where I saw the enemy moving towards our right. I at the same time saw our troops on the right moving; some said that they were retreating; others, that they were only moving to the right to prevent the enemy's getting round them; there were some cannon shot exchanged between them. I did expect that General Scott would have moved to the right, as there was a vacancy between him and the other troops, and would have given me an opportunity to form, but while I was riding up to him, I saw his troops turn about and form in columns, and General Scott coming to meet me. I think he told me our troops were retreating on the right, and we must get out of that place;

that he desired his cannon might go along with me, as there was only one place to get out, and he would get over that morass if he could; upon which I ordered my brigade to face to the right-about, and march back. The reason of my marching back was, that if I did not get over a certain causeway before the enemy came down on the right, I should have been in danger of losing my cannon. When I came to the open ground, within sight of the church, there I plainly saw our troops retreating on the right in several columns, and apparently to me in very good order. I then sent off my Quarter-Master to General Lee, to know if he had any orders for me; at the same time my brigade was forming in the open ground by the woods, near the road I had gone up in. The Quarter-Master that I sent, came back and told me that General Lee ordered me to throw my brigade over into the woods on the right. I was very angry at him, and thought he had not represented to the General where I was, or had not taken up the orders right, but he persisted in it. I did expect there that the whole of our troops would have halted, as General Lee had given orders to throw some troops into the woods on the right. I expected that I should have fallen into the woods on the left, and there was commanding high ground there, where some of the pieces of cannon were halting, but I still saw the columns marching on, upon which I thought it my duty to keep on the left with them, and on an equal pace with them; but at the same time I rode off to General Lee, whom I found in an orchard, near a house, about a mi'e this side of Monmouth Court-house, and asked him if he had any orders for me, or any directions to give me; he desired that I should throw my troops over on the right into the woods, and I thought still that he did not know my situation, and told him

I was on the left, and it was out of my power, as the rest of the columns that were coming up would break them, and go through them; well, then, said he, stay on the side where you are. He first talked to me of stopping three regiments to cover three pieces of cannon that were there, but there seemed to be plenty of troops about them, and finally, we agreed that I should cross a defile and throw my troops into the woods upon the left, and to watch a road that led from Furman's mill, which I did. The day was so excessively hot then, that the men were falling down; General Lee recommended that they might get water, and get among the bushes into the wood, that it would serve the purpose of sheltering the men and watching that road. While my brigade lay there, the rest of our troops were marching on, both to the right and to the left, crossing a defile that was in our rear. I rode out to the right, to observe what sort of ground there was there, and to see if the enemy were coming up after us. Upon casting my eye over to where my brigade was, I saw them in full march out of the woods; I rode back as fast as possible, and desired to know by whose orders they marched out of the place I had stationed them; Colonel Shreve told me he received orders from a certain Major Wikoff, who, he said, the Marquis de La Fayette had ordered to go and forward all the troops over that defile, that was in our rear; not being pleased with it, I halted the brigade some time, and then I thought proper to let Colonel Shreve pass over the defile with the cannon, which he did, and took place on the other side with his cannon, in the edge of the woods, a place which seemed suitable to cover that defile, and I shortly after ordered over two other of my regiments to join him. I imagined there would be a sufficient stand made there, and left one regi-

ment betwixt the road and the marsh that was in our rear, to cover the road that led from Furman's mill, and to prevent the enemy from cutting off our people's (who were in the rear) passage to the defile, which they maintained until the enemy drove them out. On my going to cross the last defile, I saw General Washington's troops going to form on the hill, which I was going to take possession of. On my coming up with the part of the brigade, I was informed that they had Lord Stirling's orders to form in his rear, which I did.

Q. How long were your troops halted on the ground in the rear of General Scott, before you left it ?

A. I suppose not ten minutes, but I do not believe it was above five minutes ; I think I had time enough to have formed there if there had been ground for it.

Q. Did you receive any orders from General Lee while you were on that ground ?

A. No. I did not receive any orders from him but what I have mentioned, to my knowledge.

General Lee's question.—When General Scott went to the right-about, did his left flank appear to be in immediate danger ?

A. It did not appear so to me.

General Lee's question.—When you expected that the troops would have made a halt on a certain piece of ground, did it occur to you that we had a defile in our rear ?

A. I know there was a marsh in the rear, but did not know at that time that there was but only one passage over it, which was the defile.

General Lee's question.—Do you recollect my asking you how you came to quit the wood where you thought you were so advantageously posted ?

A. I do. But I think it was in the afternoon of the 28th of June.

General Lee's question.—Do you recollect when Colonel Shreve went up the hill, where Lord Stirling was posted, whether it was Mr. Wikoff who led him there or not?

A. It was not Major Wikoff. I ordered him to take post there.

General Lee's question.—When you saw me, did I appear cool, possessed of myself, or disconcerted?

A. I saw no other appearance of your being disconcerted than your ordering me over to the right; but when I told you my situation, you were satisfied; you appeared to be disturbed only on account of the situation of the men from the heat of the day.

Brigade-Major Ogden being sworn:

Q. Did you carry any orders from General Lee the 28th of June?

A. Yes. I think it was soon after we passed the first defile, retreating better than a quarter of a mile; after we had rose the hill, I was riding with General Maxwell, with the column; as he had received no orders from General Lee, he desired me to ride to General Lee to know what the orders were. I rode to the left as we were retreating; I informed General Lee that General Maxwell had received no orders, and that he begged to know what they were; General Lee desired me to beg General Maxwell (as I understood it) to form his troops on the right, in a wood, as we were retreating, which order I communicated to General Maxwell That this is the only order I recollect to have carried from General Lee that day to General Maxwell. After the remainder of General Maxwell's brigade had

crossed the bridge, near the bridge I went to let General Lee know that Colonel Ogden's regiment was posted in a point of woods adjacent to the road which led to the bridge, and that he intended to give the enemy a warm reception there. General Lee answered, don't tell me of what they will do, but tell it to me after they have done it, and General Lee expressed a wish or desire that they would do it; these were the words as near as I can recollect. The Marquis de La Fayette, as I was riding by, called to me, and desired me to carry an order to Colonel Stewart, which I think, but am not certain, was to march to the right, to cover the cannon and retreat. I delivered the exact order to Colonel Stewart that the Marquis gave me in less than two minutes after I received it. This was the only order I carried to Colonel Stewart, or from the Marquis.

The Baron Steuben being sworn :

Q. Had you any conversation with General Lee the 28th of June, after the retreat, relative to the transactions of the day ?

A. Yes. On the 28th day of June, after having been reconnoitering, I returned from Monmouth in order to make my report to the Commander-in-Chief, whom I found at English-Town. Having seen that the enemy was marching, and doubting of our being able to overtake them, having seen nothing in my way but some militia which followed at some distance, I stopped at a house in English-Town to take some rest, where I stayed about an hour and a-half; I afterwards continued my road to meet the Commander-in-Chief. On my way I heard several firings of cannon, and I made the greatest haste to arrive near the General, whom I found on the high ground, beginning to form the troops as they

arrived. It was there that I saw General Lee's division retreating in great disorder, followed by the enemy, whose strength I conceived to be 1,500 men of infantry, and about 150 horse. As I was employed in placing a battery General Lee passed by me, without our speaking to one another. About a quarter of an hour after the Commander-in-Chief ordered me to stop the retreating troops and form them towards English-Town. I sent some officers forward to stop the men, and I went there myself, accompanied by Mr. Ter-nant and my Aids-de-Camp, to form them. As I passed through English-Town I found General Lee on horseback before a house; he asked me where I was going; I acquainted him with my orders, upon which he said to me that he was very glad of my having taken that charge upon me, for he was tired out. I assembled part of General Maxwell's brigade, and part of General Scott's detachment, which I formed behind the creek at English-Town; General Maxwell was himself there. Scarce had the troops taken their position when General Patterson arrived with three brigades of the second line, and desired to know where he was to be stationed; I placed his three brigades a little more in the rear, on a high ground, and I established a battery on the right wing, in front of the second brigade of General Smallwood. The cannonade continued more or less briskly till past five o'clock. Half an hour after it had ceased, Colonel Gemat arrived and brought me the order from the Commander-in-Chief that the enemy was retreating in confusion, and that I should therefore bring him a reinforcement. I ordered General Maxwell to take the command of the troops I had placed behind the creek, and to remain there till further orders. I then marched off with the three brigades of the second line; as I passed

through English-Town I again met General Lee, who asked me where I was going; I imparted to him the order I had received from the Commander-in-Chief, which I delivered in the very expressions of Colonel Gemat, that the enemy was retreating with confusion. Upon that word *confusion*, he took me up, and said that they were only resting themselves; but, said he, afterwards, I am sure there is some misunderstanding in your being to advance with these troops; I told him that I had received the order from Mr. Gemat; I ordered, however, General Muhlenberg to halt, and sent for Captain Walker, my Aid-de-Camp, who repeated, in presence of General Lee, the order which Colonel Gemat had brought me; then, said he, you are to march, and I went on with the troops. This is nearly all the conversation I had that day with General Lee.

General Lee's question.—What was the purport of the intelligence you gave to General Dickinson the 28th of June, respecting the strength of the enemy?

A. General Dickinson did not ask me what the strength of the enemy was, neither did I say anything to him about it. I told General Dickinson that the enemy was in march, and that I had seen their rear guard.

Monsieur Langfrang being sworn, (Monsieur Ponceau being sworn interpreter:)

Q. Had you any conversation with General Lee the 28th of June respecting the transactions of the day?

A. Yes. A long time before the battle, in the instant that General Lee's division arrived before Monmouth Courthouse, when the division began to form itself behind the creek, opposite to a road that led to the town, Colonel Lawrence, with whom I was formed, with some light-horsemen,

sent me to General Lee in order to acquaint him that we had seen a regiment of the enemy entering into the wood, and that we had no body to support us, which forced the light-horsemen to return behind the church-yard, waiting for some infantry, which we hoped General Lee would send into the wood to our left. As I arrived to ask the infantry of General Lee, I found him near the creek; I acquainted him with the number of the enemy who had thrown themselves into the wood, and told him we had no body to support us; that, indeed, there was some militia in the wood, but the militia having gone too far into the wood, our left wing was quite uncovered; upon which General Lee told me that the militia which was in the wood was to be called from the wood; then the brigade belonging to General Lee's division, which was forming itself on the road leading to Monmouth Court-house, was ordered by General Lee to return to the plain. The precipitation with which the order was given made me think that General Lee had misunderstood me. I repeated over what I had said to him; upon which he answered me, that he had orders from Congress and the General-in-Chief not to engage; upon which I returned to the church-yard, where we staid without the enemy appearing any more.

General Lee's question.—Did you understand me, that I meant not to engage at all, or not to engage but in a particular manner?

A. I understood that you intended not to engage at all, because there were only two hundred men of the enemy who had thrown themselves into the wood, and when I told you of this, your whole division retreated to the plain.

The Judge Advocate produces to the Court, two letters,

written by General Lee to his Excellency General Washington, dated the 1st of July, and the 28th of June, which General Lee acknowledges were written by him, and which being read, are as follows :

Camp, English-Town, July 1, 1778.

SIR,—From the knowledge I have of your Excellency's character, I must conclude that nothing but the misinformation of some very stupid, or misrepresentation of some very wicked person, could have occasioned your making use of so very singular expressions as you did on my coming up to the ground where you had taken post; they implied that I was guilty either of disobedience of orders, of want of conduct, or want of courage; your Excellency will, therefore, infinitely oblige me by letting me know on which of these three articles you ground your charge, that I may prepare for my justification, which, I have the happiness to be confident, I can do to the army, to the Congress, to America, and to the world in general. Your Excellency must give me leave to observe that neither yourself nor those about your person could, from your situation, be in the least judges of the merits or demerits of our manœuvres; and, to speak with a becoming pride, I can assert, that to these manœuvres, the success of the day was entirely owing. I can boldly say, that had we remained on the first ground, or had we advanced, or had the retreat been conducted in a manner different from what it was, this whole army, and the interests of America, would have risked being sacrificed. I ever had, and hope ever shall have, the greatest respect and veneration for General Washington; I think him endowed with many great and good qualities; but in this instance, I must pronounce that he has been guilty of an act of cruel

injustice towards a man who certainly has some pretensions to the regard of every servant of this country; and, I think, sir, I have a right to demand some reparation for the injury committed, and, unless I can obtain it, I must, in justice to myself, when this campaign is closed (which I believe will close the war), retire from a service at the head of which is placed a man capable of offering such injuries; but, at the same time, in justice to you, I must repeat, that I from my soul believe, that it was not a motion of your own breast, but instigated by some of those dirty earwigs who will forever insinuate themselves near persons in high office; for I really am convinced, that when General Washington acts for himself no man in his army will have reason to complain of injustice or indecorum.

I am, sir, and hope ever shall have

Reason to continue, your most sincerely

Devoted, humble servant,

CHARLES LEE.

His Excellency General WASHINGTON.

Camp, June 27, 1778.

SIR,—I beg your Excellency's pardon for the inaccuracy in mis-dating my letter. You cannot afford me greater pleasure than in giving me the opportunity of showing to America the sufficiency of her respective servants. I trust that the temporary power of office, and the tinsel dignity attending it, will not be able, by all the mists they can raise, to offscate the bright rays of truth; in the meantime, your

Excellency can have no objection to my retiring from the army.

I am, sir, your most obedient,

Humble servant,

CHARLES LEE.

General WASHINGTON.

Major-General Lee produces a letter from his Excellency General Washington, dated June 30th, which being read, is as follows :

Head-Quarters, English-Town, June 30, 1778.

SIR,—I received your letter (dated through mistake the 1st of July), expressed, as I conceive, in terms highly improper. I am not conscious of having made use of any very singular expressions at the time of my meeting you, as you intimate. What I recollect to have said was dictated by duty and warranted by the occasion. As soon as circumstances will permit, you shall have an opportunity either of justifying yourself to the army, to Congress, to America, and to the world in general, or of convincing them that you were guilty of a breach of orders, and of misbehaviour before the enemy on the 28th inst. in not attacking them as you had been directed, and in making an unnecessary, disorderly, and shameful retreat.

I am, sir, your most obedient servant,

GEORGE WASHINGTON.

Major-General LEE.

Major-General Lee requests his third letter to General

Washington, dated June 30th, may be read, which being read, is as follows :

Camp, June 30, 1778.

SIR,—Since I had the honor of addressing my letter by Colonel Fitzgerald to your Excellency, I have reflected on both your situation and mine, and beg leave to observe, that it will be for our mutual convenience that a court of inquiry should be immediately ordered : but I could wish it might be a court-martial, for if the affair is drawn into length, it may be difficult to collect the necessary evidences, and perhaps might bring on a paper war betwixt the adherents to both parties, which may occasion some disagreeable feuds on the continent, for all are not my friends, nor all your admirers. I must entreat, therefore, from your love of justice, that you will immediately exhibit your charge, and that on the first halt, I may be brought to a trial ; and am, sir, your most obedient, humble servant,

CHARLES LEE.

His Excellency General WASHINGTON.

The Court adjourns till to-morrow, at nine o'clock.

JULY 19th.

The Court met according to adjournment.

The evidence being closed on the side of the prosecution, and Major-General Lee being requested to make his defence, desires Captain Mercer and several other gentlemen may be sworn.

Captain Mercer, Aid-de-Camp to Major-General Lee, being sworn, says :

On the evening of the 27th of June, soon after General

Washington had left English-Town, I was sent by General Lee with an order to General Dickinson; he would have given this order in a letter, but expected I could explain it more fully verbally; it was to inform General Dickinson that he intended to attack the enemy as soon as he could be certain of their march for Middletown; that it was of the greatest consequence that he should have the earliest intelligence, and for that intelligence he should depend entirely on General Dickinson, and be governed by whatever he heard from him; that he had been referred to him (I understood from General Washington) for intelligence, and he, General Lee, having very few light-horse with him, and the Continental troops being unacquainted with the country, it was impossible he could get any certain information himself. General Dickinson's answer was, that General Lee might depend upon him for every intelligence that his situation would give him an opportunity of procuring, and observed that the militia could not be depended upon. I then returned to General Lee; I remember nothing further of consequence, except orders being given to the troops to hold themselves in readiness to march at any hour in the night. After one o'clock in the morning we were waked up by a letter from General Washington, signed by Colonel Hamilton. It was an order for General Lee to detach about six or eight hundred men as a party of observation, who should march to within about two miles of the enemy, and there wait until the enemy began their march, that this party should send continual intelligence, and should attack the enemy when they began to move, but this was left to the discretion of the officer commanding the party, if he found there should be a convenient opportunity without endangering himself. Captain Edwards, General

Lee's Aid-de-Camp, immediately issued orders, by General Lee's desire, to Colonel Morgan, informing him that he, General Lee, intended to attack the enemy's rear the next morning, should they march; and that he, Colonel Morgan, should attack their right flank on their march. About five o'clock in the morning a billet was received from General Dickinson, dated at half-past four, that the enemy were then getting in motion. Colonel Grayson, who had been ordered with Scott's and Varnum's brigades, making about six or seven hundred men, in consequence of the letter from General Washington, had about this time marched his men into English-Town, and was detained some time for want of a guide, before he could go off. After he had marched, I was ordered by General Lee to write to the Marquis de La Fayette, that he might immediately put himself at the head of Wayne's and Scott's detachments; likewise to General Maxwell, that he should put his brigade in motion and march them to the road that led to Freehold; I don't conceive that the troops were ready before eight o'clock or half-past eight, at which time General Lee set out from his quarters. We passed the troops, who were about one-quarter of a mile in advance of English-Town, on the Freehold road, and then on their march. We had not proceeded far before we met an Aid-de-Camp of General Dickinson; he addressed himself to General Lee, and, from what I could gather, his message was, that the enemy had, instead of marching off, arranged their whole army at Freehold, and begged General Lee not to advance the Continental troops any farther than English-Town, as he expected the enemy meant to attack immediately, and that he made no doubt they either had, or would throw a column on the Covenhoven road, which led from Freehold into the rear of our position at English-Town.

I think this was the purport of the message, though I could not hear it distinctly. General Lee desired him to ride on with his intelligence to General Washington, and in his way to halt the troops; he then rode on himself, and expressed a good deal of uneasiness at the party that was advanced under Colonel Grayson, who had some time before been ordered to quicken their pace, if possible, to get up with the enemy; he desired me to ride back and beg of General Wayne that he would come forward and take command of those advanced troops, as he looked upon it as a post of honor; and likewise to order General Maxwell's brigade, which General Lee, in his disposition, had ordered to march in the rear of the troops, into the Covenhoven road, to march to the forks of that road, where a road led from Craig's mill to the Court-house; to take a position there for his brigade, and wait either the enemy or for further orders. I executed both of these orders, and delivered General Maxwell a rough draught of the road. In my return from General Lee to the troops, I met Colonel Meade, from his Excellency, who asked me if I was going to order on the troops. I told him no, that the enemy were advancing, and I was going on other business. On my return, I again met Colonel Meade, who told me he was going back with General Lee's order to bring on the troops; I begged of him to ride to General Maxwell's brigade, who could not have marched far, and order them back again. I then made what haste I could to General Lee; I overtook him on the other side of the bridge, in front of the position Lord Stirling afterwards took. I found a number of pieces of intelligence had been given him with respect to the enemy, almost all contradictory, and himself and General Dickinson engaged in a very warm dispute; General Lee insisted upon it, that their

principle was a retreat, and General Dickinson, on the other hand, as confidently affirmed that they had not moved at all. I heard General Dickinson say to General Lee, that if he moved the troops over that bridge he would get into a very dangerous country, from which there was no retreat but over that pass. About this time, intelligence was brought, that a party of the enemy were moving down, as we then stood, through an orchard on the left of the morass on our left. I was ordered by General Lee to conduct Varnum's brigade over the bridge back again, in order to meet them. About this time I remember Monsieur Langfrang's coming up, and not a man of General Lee's command had arrived, or did arrive for three-quarters of an hour, at that place, except the command of Colonel Grayson; he told the General something that the General seemed to pay no attention to. As the enemy were said to be on our left, and partly in our rear, I was sent off with Varnum's brigade, and galloped before them myself, until I got to the orchard, where I found them to be a large body of militia, who had lost themselves, under the command of Colonel Freylinghausen. I immediately returned to Varnum's brigade, and ordered them to return with as great expedition as possible over the bridge. When I regained General Lee, I found him exceedingly irritated at the false intelligence that had been given him. By this time, the head of the column under the Marquis de La Fayette, had got in view, and the General immediately ordered the troops on, having before dispatched orders to bring on Colonel Butler's and Colonel Jackson's regiments to form the advance guard; they got up and were formed, and the General proceeded on with them in front, without making any kind of halt, until we got in sight of the Court-house. Colonel Butler's regi-

ment was then formed opposite to the cross-road that led from Freehold to Amboy, and the other troops were ordered to face towards the Court-house. The whole troops under General Lee's command were then up; Butler's and Jackson's formed the advanced guard, Scott's and Varnum's brigades marched in front, Generals Wayne's and Scott's detachments, and General Maxwell's brigade, formed the line. The enemy, when we got to this open ground, near the Court-house, appeared in view; there appeared to be a number of light-horse in no kind of order, and some parties of foot interspersed in no order, ranged in front, and appeared advancing towards us and to the left. The General went out himself to reconnoitre, and we found by their moving to the left that they were in all probability retiring; he immediately returned, and I understood from General Lee that Colonel Butler's regiment was sent off with orders to attack; Colonel Jackson's regiment would have went with them, but it was found that they had but seventeen rounds of cartridges per man. General Lee ordered me to have the sergeants of that regiment collected, and by a cartridge from each man, of the rest of the troops, to make up the deficiency. About this time Captain Edwards arrived, who had been sent by General Lee to reconnoitre to the left, who told General Lee that the enemy were retreating. General Foreman, who was with General Lee, informed him that he could carry his column a road to the left that would bring him into the front of the retreating enemy. I was sent immediately by General Lee to reconnoitre the road, to see whether cannon could be passed along; I found the road would answer the purpose exceeding well. As I was advancing down the road I observed a large encampment of the enemy's, which it appeared they

had just left, by the chairs standing, and water that had been just spilt. I inquired at a house just over the causeway; they told me that two thousand had lain there, and were moved about three-quarters of an hour before, towards the Court-house, and that they believed they were not moved from the Court-house. I returned immediately to General Lee, made my report of the road, and mentioned this circumstance to him; he said he supposed their covering party might consist of that number; he mentioned, likewise, if there was any interval between them and their main body, he should certainly cut them off. Colonel Jackson's regiment was by this time completed with cartridges, and was sent off with Colonel Malmedie, to conduct them to join Colonel Butler. I understood General Wayne was to command the whole of that advance party; Colonel Oswald being desirous of going with these troops, the General had at first ordered only one piece, but on Colonel Oswald's observing that he had only one ammunition wagon to both, they were both ordered on. The General then asked what number General Wayne's party would then consist of? I observed to him that they were about five hundred and fifty; he said that would not be enough for the purpose, and desired that another regiment from the front might be ordered on to reinforce them. General Scott's brigade being in front, Colonel Parke's regiment was formed in the road facing the Court-house, and the other regiment had taken the place of Colonel Butler's; Colonel Parke was ordered on immediately, and directed the course he was to march, expecting he would soon overtake Colonel Butler, as there was a little before a scattering fire of musketry heard just in front. Captain Lenox now arrived from General Wayne, and informed General Lee that the enemy

had halted, and he expected would attack him, and begged that the troops might be forwarded up to his support. General Lee's answer to Captain Lenox was, that it was nothing but the customary manœuvre of a retreat, to which General Wayne should pay no kind of attention. Captain Lenox immediately rode off, and General Lee desired he might be stopped, for he had something more to say to him; I hallowed to Captain Lenox, who did not hear, but rode on; upon that the General explained himself fully to me concerning the manner he intended General Wayne should act, and the manner he intended to act, and ordered me on to General Wayne. I met General Wayne in front of the enemy, in open ground; Butler's regiment was at this time filing off to the left, and I delivered him my orders to the following purport: that he should advance with the troops under his command and attack the enemy in rear; that all the General expected from his attack was, to halt the enemy, as he did not expect nor wish that the enemy should retreat to their main body, or, from an opinion of his numbers, call for a reinforcement from that main body. General Wayne observed to me, that he had no command at all there, that he had no troops; I told him that there was Jackson's and Parke's ordered up to join Butler's; he said he had seen nothing of them; I answered that they would soon be up with him, that I would hurry them on; I observed to him, that General Lee was marching his whole column by a road that led to the left, and would, by that means, get into the front of the enemy and cut them off; I believe I explained myself to General Wayne as full, if not more so, than I have done to the Court. General Wayne then told me, that he desired a piece of cannon might be immediately sent to him, and he would engage to stop them. I then immediately

quitted him, as I knew Colonel Oswald was coming on with two pieces of artillery, and endeavored to return to the cross-road. On my return, I met Colonel Jackson's regiment, who had got up almost in a line with Colonel Butler's regiment, and Colonel Parke's regiment in his rear some distance. I met Colonel Laurens, General Washington's Aid-de-Camp, and inquired of him where General Lee was; he told me that he was marching with the whole column to the left, and observed to me that he believed General Lee had forgot the two pieces of artillery of Colonel Oswald's. I then pushed on the road to the left, and overtook the troops marching with great rapidity. I did not, however, overtake General Lee until I came to the open ground, where I found him filing off by columns to the left, as we faced the Court-house, and had halted Colonel Livingston at the head of General Wayne's detachment, as I understood, to form the right. The three regiments in General Wayne's detachment, Colonel Wesson's, Colonel Stewart's, and Colonel Livingston's, were ordered to the right, and General Lee rode out to reconnoitre the enemy, who now appeared in full view. He rode towards Colonel Oswald's pieces, who had began a very sharp fire on the enemy, but a much severer was kept up from them, as they had a great many more pieces. Upon taking a view of the enemy they appeared to be marching back again towards the Court-house; they appeared in much greater numbers I believe than General Lee expected; he said he believed he was mistaken in their strength, but as they were returning towards the Court-house, there would be no occasion to push that column farther to the left, as they were in the rear already. He then ordered me to General Scott, who, he said, was with the front of the column that had been filed off to the left, with orders for him to halt his column in the wood, and to

continue there until further orders. I asked him where I should find General Scott, as I had not been there when the front of the troops had been filed off; he pointed with his hand to the wood over the ravine, told me I should find him there; at that same time I remarked to General Lee there were troops on this side the ravine; I think he told me they were General Maxwell's brigade. The troops that were now going to the right, that is, Wayne's detachment, could not be said to be retreating, as every step they gained they came nearer to the enemy, who were likewise pushing to our right. I made what speed I could to the ravine, but my horse being very tired I was some time a-going; I found great difficulty in passing it, as it was very deep and very miry. When I got on the other side I found Colonel Jackson's regiment returning over the ravine again; I had some conversation with Lieutenant-Colonel Smith before I saw Colonel Jackson; I mentioned to Colonel Jackson that I was going to General Scott, who was in that wood to the left; he told me that there were no troops there. I begged of him not to cross the ravine until I should return to him. Going a little farther in the hollow I saw Colonel Grayson at the head of the other regiment of Scott's brigade; I asked him why he was not in the wood, (as this regiment ought to have been in front of the column that marched up to the left, and never had belonged to General Wayne's detachment;) he told me that he had been halted there by General Wayne's order. I was a good deal surprised at that, as General Wayne had undertaken to order the troops that were not in his detachment, and told Colonel Grayson that the order should have come through me. Colonel Grayson told me he would go into the woods if I ordered him; I made him no answer, but rode up the hill, where I perceived

that no troops were in the woods. I took a transient enfilade view of the enemy; the party nearest us seemed to be a brigade of artillery, who were firing, covered, as I supposed, by about six hundred infantry, and their horse all halted, which were considerable, in my idea; a column of the enemy appeared at a great distance from me, marching down towards the Court-house or our right; I supposed they might be about, not quite three thousand men. I looked between a house that was in flames and the wood on the left, and observed the head of what I concluded to be the main body of the enemy; I saw but few of them, just their front, who were in full march towards us; all appeared at a great distance from me. I was but a little time taking this view, and as I returned by Colonel Grayson I told him to fall in the rear of Colonel Jackson, who was retreating over the ravine the same way he came. I mentioned to Colonel Jackson that he had better form on the other side of the ravine, where I expected the line formed by General Maxwell's brigade was. I passed the ravine myself, and attempted to go to the Court-house along it, but our artillery having retreated, and the enemy being advanced, I directed my course to the right; I there met Captain Edwards, the other Aid-de-Camp, who was going over the ravine I had left, with orders to General Scott; I told him that General Scott was not there, and by the time he got over the ravine there would be no troops there. I now observed all our troops retreating into the woods from which they first came out, and Captain Edwards and myself, turning through a point of wood that was next to the Court-house, where the enemy had had an encampment, we both saw a body of troops and artillery going down a road, I believe the one we came up. This must have been General Scott's

detachment, as we found all the rest of the troops except his detachment and Colonel Butler's regiment in the open field behind the Court-house when we came into it. We rode towards the Court-house, and in the lane we met General Lee reading a letter, as I afterwards understood, from Colonel Fitzgerald. I mentioned to him that no troops were in the woods where he sent me, and that, by that time all the men had retired from the left. His expressions of surprise were very great, and we continued with him, he being now with General Portal, General Knox, and some other officers. Immediately after I had given the General this intelligence, he desired that I would ride to the Marquis de La Fayette; I mentioned to him that my horse was exceedingly tired, and that if there was any one else, he had better be sent; he turned to the light-horse officer, and ordered him to carry orders to the Marquis to retreat to the Court-house. I did not, at that time, know where the Marquis was, but shortly after saw him in the village. General Lee, upon sending off the light-horse officer, followed himself that way. I remained some distance behind, looking at the enemy. The troops being all retiring, part were ordered to be thrown into the woods on the right, and part into the woods on the left; however, the extent being too great between the two woods, this disposition was countermanded, and the troops were ordered to continue their march to a point of view, where, I understood from General Lee, the position was to be taken. I carried orders for this purpose from General Lee to the front of different columns, that from the time I gave that intelligence to General Lee of the troops having gone off from the left, to the time I carried particular orders relative to the retreat, was about six or seven minutes; in that time the troops had got some

distance behind the Court-house on their retreat. After we had passed the next ravine in our rear, the artillery were ordered to form on a height to the left, as it fronted the enemy, and a body of infantry to support them. I was riding about with many different orders to effect these purposes, until the troops were all got over the ravine in front of Carr's house. When the troops had nearly all passed by Carr's house, the enemy's horse made a charge upon our horsemen who were in rear, and I expected would have attempted a charge on the whole rear; I was ordered by General Lee to halt the rear and draw them up at that fence. I halted one of Colonel Grayson's regiments in front of the fence, which Colonel Grayson afterwards removed into the rear of the fence, as a better position; and by this time, General Lee had given over the design of possessing the height first discovered by Mr. Portal, a height which appeared at that time very advantageous to me. In the field, back of Carr's house, Mr. Wikoff met him, and I understood had directed him to the height occupied afterwards by Lord Stirling, as the only piece of ground in our favor. The troops were then ordered to continue their route to the bridge where we first crossed; in our retreat we were informed that General Washington had come up, and General Lee rode from the rear to see him. When we came up to General Washington I was close by General Lee, and heard the conversation that passed between them; General Washington first accosted General Lee, by asking him: What is all this? General Lee not well hearing him, the question was repeated. General Washington in the second question asked: What all that confusion was for, and retreat? General Lee said he saw no confusion but what had arose from his orders not being properly obeyed. General Washington men-

tioned that he had certain information that it was but a strong covering party of the enemy. General Lee replied that it might be so, but they were rather stronger than he was, and that he did not think it was proper to risk so much, or words to that purport; General Washington replied, then he should not have undertaken it, and passed by him. I had heard General Washington himself giving several orders for halting the troops, and thinking that General Lee might counteract him, as he was giving some orders, took the liberty of mentioning to him that General Washington had taken the command; General Lee then said that he had nothing further to do, and rode after General Washington in front; by the time we got up the enemy appeared immediately in front, and their artillery began to play. General Washington seeing General Lee, asked him if he would take the command there, or he would; if General Lee would take the command there he would return to the main army to arrange it; General Lee replied that his Excellency had before given him the command there; General Washington told him he expected he would take proper measures for checking the enemy there; General Lee replied that his orders should be obeyed, and that he would not be the first to leave the field, and General Washington then rode to the main army. General Lee immediately ordered that the artillery should be brought to the height he was on, and begged of General Knox, who was by, to try to halt them, as he had a greater influence over them than he had. Colonel Livingston's regiment was ordered up to support them, and was on his return, having received orders from General Washington for that purpose. I was then dispatched to the party in front, where General Wayne was just going into the woods; I told him that General

Lee's orders were, that he should defend that post; he asked me who I came from; I mentioned that I came from General Lee, who had again re-assumed the command; he rode on without paying much attention, and the action immediately commenced in that wood; General Lee then sent me into the rear to Colonel Ogden's regiment, as I learned afterwards they were; at the time I did not know what regiment it was; I there saw the Commanding Officer, who I did not know, and told him that General Lee's orders were, that he should defend that wood to the last extremity, and cover the retreat of the whole at the bridge; he replied, that the enemy had got upon his left, and they were very good men, and it would never do to have them sacrificed there. I mentioned to him, as I rode off, that they were not in more danger than those in front. When I returned to General Lee, the light-horse had charged upon the right of the troops in the wood, and were mixed amongst them as they retreated out of the wood; the enemy's infantry and light-horse came out of that wood seemingly mixed with our troops, and the action between Colonel Livingston's regiment and General Varnum's brigade with the enemy then commenced; they were soon broke by a charge of the enemy. The artillery now were ordered off, and I believe in the rear of the whole went General Lee.

General Lee's question.—Did I not express a great deal of indignation when you informed me that all the troops had left the woods?

A. You did.

General Lee's question.—Do you recollect the conversation that passed between me and Colonel Hamilton?

A. Immediately after General Washington told you that he expected you would check the enemy there, and you

made the answer before mentioned, Colonel Hamilton rode up in great heat, and said to you, I will stay here with you, my dear General, and die with you; let us all die here rather than retreat. You answered him very coolly, to observe you well, to see whether you were discomposed, and if he did not think you fully a judge of what was proper to be done; that you were as ready to die as he, and that after you had seen the Continental troops that were under your charge in safety, you said, I do not care how soon we die; Colonel Hamilton made answer that he thought you possessed of yourself to a very high degree.

General Lee's question.—In the whole course of the day, excepting where I expressed my indignation at the disobedience of my orders, the contradictory intelligence I received, and the impertinent intrusion of people who acted in no capacity; did I not appear, in both fire and out, as perfectly composed as ever you saw me in your life?

A. I could not but think you exceedingly composed, as several circumstances happened during the time that evidently evinced it.

Question by the Court.—How came you to suppose the body of troops that you saw between the house in flames and the woods, were the main body of the enemy?

A. I observed them marching very wide in front, and as I had before seen the party, which I judged to be the covering party, and then divided from them, I could not suppose them to be inconsiderable.

Question by the Court.—If the body you saw had consisted of only one hundred men, would they not have made the same appearance to your view?

A. I do not think that one hundred men might have been

drawn up in such a manner as to have made the same appearance in front to my view.

Question by the Court.—Who did you deliver the orders to that you carried from General Lee and delivered at the head of several columns?

A. The first order I carried was to the head of four columns; I delivered it to Mr. Langburn, who, I understood, acted as supernumerary volunteer with the Marquis, who had then the charge of conducting these columns, and I delivered them to the columns in rear, but did not know who the officers were, and also, I was going to General Maxwell's brigade, when I met General Maxwell riding himself to General Lee for orders.

Q. Did you communicate to General Lee the number of the enemy's troops, and the separate bodies of them you had seen?

A. I reported to him, that from what I had seen, their flying army at least was there, if not their whole force.

Q. At what time did you communicate this to General Lee?

A. At the same time I told him that the troops he had sent me to with orders were not in the woods he directed me to.

Question by the Court.—Do you recollect any conversation having passed between General Lee and General Wayne, after General Washington took the command?

A. I do not.

The Court adjourn to North-Castle till Tuesday next, at ten o'clock.

JULY 21st.

The Court met at North-Castle, according to adjournment.

Question to Captain Mercer — What number of the enemy did you perceive when they appeared to be marching back to the Court-house ?

A. The enemy, from what I could perceive of them, were divided ; that party with the artillery were nearest us, and kept up a very severe cannonade, and were nearly, I think, in the middle of the plain ; in the rear of them, and on the other side of the plain, near the woods, a column of the enemy appeared, marching towards the Court-house, consisting of, I suppose, near two thousand men.

Q. What reason had you to believe that this number was greater than General Lee expected ?

A. General Lee had told me before at the cross-roads, when I gave him a piece of intelligence before related, that he supposed their covering party consisted of fifteen hundred or two thousand men. I do not know what number of men appeared to General Lee, that were then in view at the time we were reconnoitering, but he expressed himself, they were much larger than he thought they were. They appeared to me, altogether, to be about three thousand horse and foot.

Q. When the enemy were returning towards the Court-house, and General Lee said there would be no occasion to push the troops farther to the left, did you hear him give any orders to the troops under his command ?

A. We were out a reconnoitering, and no troops near us ; he sent me immediately afterwards with orders to General Scott.

Q. Did you go to the wood where General Lee pointed General Scott was in?

A. Yes, and General Scott never could have been so far advanced to the left, or if he had been, he could have staid but a very small time.

Q. How far did you go into the woods?

A. I was close to the wood, and it was a pretty open wood, and all the troops that were then over the ravine, near the enemy, was Colonel Jackson's regiment close to the ravine. Colonel Grayson's halted in his rear, both in the hollow; and in the orchard to my right upon the hill, and farther advanced to the left towards the house that was burning, I saw a party of men, that from what I have understood since, I believe must have been Colonel Butler's.

Q. What were the particular orders you carried from General Lee to the front of the different columns?

A. The orders I carried to Mr. Langburn were, that the columns that he was with, who where at that time closing together to pass over the defile in front, and on the left of Carr's house, were, that they should march to a height in open view that appeared flanked by two woods, and there halt.

Q. Did you deliver any orders from General Lee to General Scott that day?

A. I did not, that I remember.

Q. Did you see General Maxwell's brigade in the field when you and Captain Edwards saw a large body of troops marching, which you took for General Scott's detachment?

A. We were then in the woods, passing by an encampment of the enemy. The troops that I supposed to be General Scott's detachment, were marching down the road

towards English-Town. I neither saw front or rear of them. I saw, I suppose, about the centre, and when we advanced as far as the plain, in open view of the Court-house, General Maxwell was issuing out into the plain with his brigade.

Q. Did General Lee, after the troops had passed the last defile, make any disposition to check the enemy ?

A. If you mean the defile in front of Lord Stirling's position, General Lee had intended to march all his command who were then with him, over that defile, and take possession of the ground that Lord Stirling formed on ; but General Washington coming up, destroyed that intention, by ordering General Lee to halt the rear of the troops, and by halting them himself who had not passed the bridge, and fight the enemy on that ground, as it was necessary to check the enemy there, the whole army being to be arranged.

Q. How do you know that was his intention ?

A. He told me himself of it, and pointed to the ground before Lord Stirling had arrived on it.

Q. Were you then in sight of the ground ?

A. I was ; it was just before we met General Washington.

Q. Had you any directions how to form the troops there ?

A. I had no particular directions, but that they were to halt there.

Q. What were the orders you were charged with for General Scott from General Lee ?

A. The conception I have at present of these orders (I do not recollect the express words of General Lee) General Lee having before informed me that the column was to get

into the front of the enemy as they were retreating, or into their rear, as they were coming back, and observing General Lee, when I overtook him in the open ground, filing off the column to the left up the skirt of the wood, for the purposes evidently before-mentioned. I understood General Lee, as he made this remark, that the enemy are now returning back again. That General Scott had answered that purpose when he had arrived at the wood, which I should explain to him, and that he should defend that wood until General Lee should make a farther disposition, and he should get his particular orders, as that scheme of getting into their rear would be then fully answered, and the enemy could not retreat again to their main body without falling in with him.

Q. Did you carry any orders to the several columns from General Lee, after he had relinquished his design of halting at the point of view ?

A. I was not sent with any orders until we got near where General Washington was, which was a short time after I understood General Lee had relinquished his design of halting at the point of view.

Q. Were any measures taken to find General Scott's detachment, after you carried him orders from General Lee, and could not find him ?

A. None that I know of.

General Lee's question.—Did you not think, when General Scott left the wood, that our right flank was in greater danger than our left from the situation we were in ?

A. As General Scott and General Maxwell, and the other troops that were to the left, made above two-thirds of your whole command, and the enemy seemed to bend their course from our left to our right, I can't conceive General Scott was in any danger at all.

General Lee's question.—What order was the different columns in when we passed the hither side of the ravine, when we were looking out for a position ?

A. I did not see any troops that were in disorder in the course of the day until the party was broken on the hill. All the troops that I saw were in perfect good order, as far as the heat of the weather would permit

General Lee's question.—Did I not complain to you, and express a wonder that there was not more disorder amongst the troops, from my being a perfect stranger to the officers, and they to me ?

A. I heard you say that you were in a shocking situation, as you hardly knew a single man or officer under your command, or his rank.

General Lee's question.—Did I not express an uneasiness at his Excellency's interfering and giving orders, when I understood he had, as it might clash with my projects ?

A. I did not hear you.

General Lee's question.—Do you recollect anything I said to General Washington, as to the disposition of the troops, when we came up to the hill where Lord Stirling's line was formed ?

A. You said you had all got there, and would be glad to know what his Excellency would have done with them ; whether he would have you arrange them in front, flank, or rear.

General Lee's question.—Where was I when you first brought me the intelligence of the troops on the left having been gone off, whether advancing or retreating ?

A. I think it was on the road leading from the Court-house to the left, but whether to Anboy or Middletown, I

cannot determine. You were going, I think, to the left, and Colonel Hamilton had just left you.

Major-General Lee produces to the Court a letter from Colonel Morgan, which being read, the part admitted as evidence is as follows :

Mannsquam Brook, June 29, 1778.

“SIR,—General Lee wrote me yesterday, at one o'clock in the evening, he intended to attack the enemy's rear this morning, and ordered me to attack them at the same time on their right flank.”

Colonel Jackson being sworn, says :

On the morning of the 28th of June, I received orders from Colonel Brooks, then acting as Adjutant-General to General Lee's division, to march the detachment then under my command, and fall in the rear of General Maxwell's brigade. There was some misunderstanding between General Scott's detachment and General Maxwell's brigade, by both coming into the road at the same time, and I fell in the rear of General Scott's detachment. While I was there, I received orders from General Wayne's Brigade-Major to march in front and join the advance guard, under the command of Colonel Butler. I was furnished with a guide for that purpose, and joined him. I believe we marched on four or five miles, more or less, when we discovered the enemy by Monmouth Court-house, a party of horse and a party of infantry. At this place General Lee ordered us to form the line in front of a wood. Then General Lee rode towards the enemy, soon returned, and ordered us to advance. Colonel Butler was ordered off, and I imagined at that time that he was ordered off to fall in between that party at the Court-house and their

main body. I did not hear the orders. At this time the division under General Lee was halted. There came up orders from General Wayne, for my detachment immediately to join Colonel Butler; but before that I had orders from General Lee to march through the woods upon my left, to support Colonel Oswald with the artillery. Colonel Oswald was then on the ground with General Lee's division, and upon these orders coming up from General Wayne, General Lee ordered me off immediately to join Colonel Butler, and desired Colonel Malmedie to guide me to Colonel Butler, who was then, I imagined, about a mile and a half obliquely to the left in my front; and, on my march to join Colonel Butler, I heard several cannon fired, but from whom I could not tell. I found Colonel Butler just in the skirts of the wood, and as I came up I heard General Wayne order him to cross an orchard and march on towards the enemy, and ordered me to follow him. That body of the enemy that I saw at first at Monmouth Court-house had joined a body of men that I took to be their main body. The body I saw at Monmouth Court-house I took to be a decoying party, on account of my seeing the body, which I took to be their main body, so near. Upon the order being given, Colonel Butler's men marched on, and my men having marched a mile and a half on the run, Colonel Butler was about one hundred yards in front of me, Colonel Butler had crossed the orchard, and got into the plain; just as I had got into the orchard I saw a large column of dust about four or five hundred yards upon my right flank. The first that I knew what it was, was one of our light-horsemen rode up and said: For God's sake form, or we are cut to pieces. I immediately ordered the divisions to wheel to the right and form the line. Colonel Butler at this time

had formed the line about one hundred yards upon my left. Our light-horsemen rode upon each flank and went into the rear, and went off. The British light-horse pursued them until they got to within about forty yards of us, when they discovered us and discharged their pistols. Some of my men were going to fire, but I ordered them not to fire until I had given them orders. As soon as the British light-horsemen fired Colonel Butler's men fired, and the enemy rode off as fast as they could ride. I stood in that position, as near as I can recollect, for about ten minutes, when I received orders from Colonel Butler to join him and march on. I wheeled into divisions and marched on. Colonel Butler marched on likewise. I was still about one hundred yards in his rear. At this time I could see a very heavy body of the enemy as far as I could see from their left to their right. As Colonel Butler and myself were marching across this field, the enemy opened two pieces of cannon, or more, on Colonel Butler and myself. After they fired several shot Colonel Butler went into the woods. The second shot they fired struck the arm off of one of my grenadiers. The reason I imagined Colonel Butler went into the woods before me, was his being so much nearer to the woods than I was. After the enemy had fired ten or twelve shot, and seeing nobody in my front, I ordered my detachment to oblique to the left, and form under cover of the wood that I imagined Colonel Butler went into. In forming them as the road run, it threw my left down into a valley. At this time the enemy had ceased firing where they had at first opened their cannon on Colonel Butler and myself, and advanced, through a field, a very heavy column from their left, of what appeared with a considerable body of horse. I believe it was before this time that Colonel Oswald came up to the orchard where we were at first charged, began to

play on them, and exchanged a number of shot. A body of men (under the command of Colonel Grayson, as I understood afterwards) marched upon the left of Colonel Oswald. This body of the enemy kept advancing. The cannonade ceased between Colonel Oswald and the enemy, and I did not like my situation at all, as there was a morass directly in my rear, and a height that commanded the morass. I called Lieutenant-Colonel Smith to me, who was the next in command in the detachment; I asked him if he did not think it best for me to cross the morass and post myself upon the height that commanded it. He asked me if I had any orders. I told him no. He made reply, for God's sake don't move without you have orders. I either desired him, or he offered himself, to go and see if there was any person to give me orders; he returned in a few minutes, and told me there was no person there. Knowing my situation to be exceeding bad, I told him, then I'll risk it, and I'll cross the morass; I ordered my detachment immediately to move. As we were moving, a gentleman came up to me, and asked me if I had seen General Scott or General Wayne. I told him I had not for some time. The gentleman rode towards the enemy, returned in a few minutes, and told me to retreat into the woods, the woods being on my left flank. When I retired with the men to go across the morass, I marched from the left, and Lieutenant-Colonel Smith led the detachment. When we had got well in the woods, the detachment halted; I went up to Lieutenant-Colonel Smith to know the reason of their halting; he told me the men were beat out, and could go no further, and thought it was best to halt there eight or ten minutes to give them breath. After laying in the woods, I believe, one-quarter of an hour, (no cannon being fired at this time, nor did we know what

was going on) a gentleman came up and asked me if I wanted to get out of the woods, and that the enemy were close in our rear. We formed and marched on until we came up with General Lee's division again. General Lee ordered us, when we got in a plain to form against a rail fence. After we had formed there, he ordered us to retire to a fence in the rear, and ordered us to form there again. After this General Lee, if I recollect right, ordered me to retire, and said, for I mean to effect a retreat, (but before this Colonel Oswald came up with his cannon and cannonaded the enemy.) This was on a plain about a mile on this side the Court-house, between the Court-house and English-Town. I retreated then into a wood in the rear of this plain, stopped there a little time, and those in my rear called out, Colonel Jackson, march on! march on! and I don't recollect that I halted the men again until I got in the rear of English-Town.

General Lee's question.—Do you recollect the reason of that great interval between your detachment and Colonel Butler's ?

A. The first of my seeing you, I rode up and told you that my men had but thirteen or fourteen rounds of cartridges. At this time Colonel Butler was ordered off. You told me that you would see that I was furnished, by taking one cartridge from each man, and you ordered me to send my sergeants out for that purpose, with one of your Aid-de-Camps. After this you ordered me on, and I gave you for answer that my sergeants had not returned from collecting the cartridges. In a few minutes afterwards they returned, and the cartridges were delivered to the men, and we marched off in a very short time afterwards, I don't know but instantly. This, I believe, was the reason of the interval.

General Lee's question.—Had you not every reason, from my appearance, and from what was done, to suppose that I was determined to attack?

A. I had. I remember when I got through the wood, where I fell in with Colonel Butler, I saw the head of the column advancing, which I took to be the head of your division, through the road. I remember when we had formed the line in the wood, several persons came up and brought intelligence, some that the enemy were retiring, and some that they were advancing; and you said that the enemy were either playing a game at chess, or you intended to play a game of chess with them.

General Lee's question.—Do you recollect the person who came up to you and asked you if you had seen General Scott or General Wayne?

A. Two or three days after the 28th of June, Captain Mercer asked me if I did not recollect some conversation that passed between him and me, when he came up and asked me if I had seen General Scott or General Wayne. I told him I recollected that a person came up to me and asked me if I had seen General Scott or General Wayne, but I did not recollect the person; he told me he was the person.

Q What reason had you to suppose that was the main body of the enemy, that the body that you took for a decoy had joined?

A. The reason that I took them for the main body was, because I could not suppose they could afford so large a rear guard as that body appeared to me; as far as I could see them they appeared to be moving. The front was advancing, and the whole appeared in motion. The horse

that charged might have been the same horse that I saw near Monmouth Court-house.

Q. When you were marching on after Colonel Butler you mention to have seen a very heavy column of the enemy, as far as you could see from left to right; was this the same body you have mentioned you took for the main body of the enemy?

A. Yes.

Q. Do you know the gentleman who offered to conduct you out of the woods?

A. I don't; he was a countryman.

Q. Could you estimate the number of this body of the enemy?

A. I should have supposed the apparent number to be at least three thousand men, but as I saw no end to them, I had reason to suppose there were more.

The Court adjourns till to-morrow, at nine o'clock.

JULY 22d.

The Court met according to adjournment.

Lieutenant-Colonel Olney being sworn, says:

That on the morning of the 28th of June last, as Generals Scott and Varnum's brigades, under command of Major-General Lee, were advancing towards the enemy at Monmouth, after they had marched about a half a mile below the Meeting-house, on the road leading to Monmouth, a small skirmish happened a little in front between the British horse and militia, in which the militia gave way. On seeing this, Major Edwards, one of General Lee's aids, directed Colonel Durkee, the then commanding officer, to

post the troops as advantageously as possible, until he could ride into the rear and inform the General what was passing in front. The troops were accordingly formed on a height in front of the Meeting-house and in rear of a morass. The General soon arrived in front, and after some little time the troops were ordered to advance, but intelligence was brought that the enemy were advancing upon us with cavalry and a heavy column of infantry, which induced the General to order the troops to retire over the morass and take post on their former ground. Soon after this the General received information that the enemy were not advancing. We were then ordered to move on again, but had not advanced far, when more authentic intelligence was brought that the enemy were actua'ly advancing with a strong body of infantry and cavalry. On this we were ordered to our former ground, but before we had passed the morass, information was brought that the enemy were not within a mile of us, and were not advancing; this occasioned a halt for a few minutes, and the General, seeing that no kind of confidence could be placed in the intelligence he had received, swore he would not depend any longer on such bad intelligence, but would march the troops on until he saw the enemy, and after marching about half a mile a scattering fire began with some troops in front. We then took a road through the wood on our left, which brought us into the cleared land, in full view of the plains in front of the Court-house, where we discovered a large body of the enemy paraded in the edge of the wood on the further side of the plain. We were halted, and a small body of men appeared in front on the plain near the wood, who the General took to be the enemy, and accordingly detached me, with Colonel Angel's regiment, with orders to go through the wood on our left and attack them; but on a near approach

I found them to be our men. I then marched the regiment out on the plain and formed the line in view of the enemy, where I halted a few minutes; but seeing the enemy were advancing in column from their left, and our troops retiring, I then wheeled the regiment by platoons to the right, and marched off to join the brigade, but before I had joined them I was met by General Lee and General Wayne, who ordered me to move on and cover the artillery under Colonel Oswald, then playing upon the enemy; but before I came up to the ground the artillery had moved off. I then fell in and joined the brigade; by this time we had two men killed and two wounded with cannon shot, in Colonel Angel's regiment, which, however, did not disorder or confuse the troops. After retiring near a mile, the troops were halted for about ten or fifteen minutes in an orchard, to refresh themselves, but the enemy gaining fast upon us we retired across a morass and formed upon the height north of the orchard. The artillery at this time being a little in our rear, and as the enemy were within reach, two pieces, I think, under Captain Cook were ordered to move up and play upon them. Soon after this I saw the troops were again retiring, and General Varnum's brigade received orders from General Wayne to retire along the road on our left to cover the artillery in front, or it would be lost; we immediately filed off to the left, and before we had formed the line, Colonel Hamilton rode up to the brigade and ordered us to form with all possible dispatch, or he feared the artillery in front would be lost, and by the time we had formed the enemy had advanced within good musket shot, and the two pieces of artillery had got nearly to the fence, and as soon as they had passed into our rear we began the fire, and after exchanging about ten rounds with them we

were obliged to retreat with considerable loss on both sides, but not till after the enemy had outflanked us and had advanced quite up to the fence by which we were formed. We then made the best retreat in our power into the rear of the army, where we collected as many of the brigade as we could find, and marched back to English-Town.

General Lee's question.—What corps did you find when you marched up to attack them and found to be our people ?

A. I don't know what corps, but I think it was the corps commanded by Colonel Butler.

General Lee's question.—In the course of the day, do you think our troops were in good order, considering circumstances ?

A. Yes. The men were exceedingly fatigued, and there were but few stragglers. All the other men that I saw kept their platoons and divisions with the greatest exactness.

General Lee's question.—Did you observe in me clearness, precision and attention, through the course of the day, or the reverse ?

A. Whenever I saw you you appeared to possess as much coolness and calmness as any officer I was ever in action with, and you did not appear to be confused.

Q. How many men of the enemy could you perceive that were paraded in the skirt of the wood ?

A. I took those that were moving and those that were halted, to be between four and five thousand.

Q. Did you see a body of the enemy move from this skirt of wood towards the Court-house ?

A. Yes.

Q. How great a number did you suppose them to be ?

A. I took them to be upwards of fifteen hundred or near

two thousand men ; these were all that I saw move from that skirt of the wood.

Q. By whose orders did you retire to English-Town ?

A. We had no particular orders, but after we had got in the rear of the army, Colonel Russel, who then commanded the brigade, seeing that a great number of the troops were retiring towards English-Town, told, as the men were exceeding dry, to form what men we could and march where we could get water, which was to English-Town.

Q. In your retreat did you meet with any part of the main army that was advancing ?

A. I do not recollect that we did.

Q. Which road did you take ?

A. We took the same road we advanced on in the morning ; the plain road, I took it, from English-Town to Monmouth Court-house.

Q. Was the main body of the army formed ?

A. Yes ; I saw two lines which we passed by.

Q. What part of the retreating troops were you in ?

A. Nearly in the rear.

Q. Were you present when General Lee received the several pieces of intelligence respecting the enemy, or did you understand it by hear-say ?

A. I was present.

Mr. Gilman being sworn :

General Lee's question.—Do you recollect bringing a message to me from General Washington, and the time ?

A. In the morning of the 28th of June, I think about ten o'clock, the Adjutant-General, by order of his Excellency, sent me to you to see how far you had advanced, and to get

information of the intelligence you had of the enemy. I came up with you about a half a mile beyond the morass, which afterwards parted the enemy's army and ours. I asked you what intelligence you had of the enemy. You told me you had been deceived by false intelligence, which had detained you; first hearing that the enemy were formed in the village, then that they were marching off, then more authentic intelligence that they were formed in the village. I then asked you where the enemy were. Colonel Laurence, who was then present, told me if I would ride with him he would show me. We rode near the village, and found the rear guard was just marching down the road to Middletown. I then proceeded down by the left flank of the enemy, where I discovered five or six men of ours without an officer. I advanced with these men near the enemy. Upon our near approach, they began a scattering fire, and their cavalry made a charge upon some horse in our rear. An officer then came from General Wayne with some orders to the party with me; upon which I left them and went to you, who I found on the right near the road leading to Monmouth Court-house, and informed you I was going to his Excellency, and asked you what I should tell him. You replied I might tell him they had attacked the rear guard of the enemy, and you were in hopes of cutting them off. I then went back to General Washington, whom I met at the head of a column, about one mile back of Freehold Meeting-house.

General Lee's question.—Do you recollect my asking you where the General was, and your telling me?

A. Upon my first seeing you I think you asked me where General Washington was. I told you I left him at English-Town.

Question by the Court.—When you speak of a scattering fire, was that fire made on the party with you ?

A. Yes ; there were no other troops near at that time, that I saw.

Lieutenant-Colonel Oswald being sworn, says :

The evening of the 26th of June, at Cranberry, I joined the two brigades, Scott's and Varnum's, with four pieces of artillery. About half an hour after one in the morning of the 28th, we were assembled about three-quarters of a mile in the rear of English-Town, on the heights, and marched into English-Town, where we were detained some time for want of a guide. The guide being procured, the two brigades, Scott's and Varnum's, under the command of Colonel Grayson, advanced towards Monmouth Court-house, having about six light-horsemen in front. As we were advancing we overtook several small parties of militia falling in in a very confused manner. When we reached the first morass just in front of the position, afterwards taken by Lord Stirling, we then received intelligence that the enemy were near us. Colonel Grayson and myself rode up in front upon the hill, where we found General Dickinson with a few militia. I heard General Dickinson advise Colonel Grayson not to let the troops advance any farther, until he had made himself further acquainted with the situation of the enemy ; that as there were two roads which led from Monmouth Court-house, one on our right, the other on our left, to English-Town, it might be an easy matter for the enemy to advance a column of their troops on each road, and cut off our retreat to English-Town. By this time I discovered Colonel Durkee marching the troops and taking post on the ground where Lord Stirling afterwards took his position. Here we had several false alarms, that the enemy

were advancing; and then that they were not advancing, and a small fire with the militia in our front. Colonel Grayson then advanced with his regiment, where the militia were engaged, and I followed with one piece of artillery, and when we got in front of the hedge-row we saw no enemy. General Lee, General Wayne, and some other officers came up at this time, and rode off, as I suppose, to reconnoitre the enemy; soon after they returned, I received orders from General Lee, as I understood, and Colonel Grayson's regiment, to join the two brigades, Scott's and Varnum's, upon the hill. At this bridge we had crossed and recrossed two or three times, in consequence of the intelligence we had received being vague and uncertain. Colonel Butler's detachment, and Colonel Jackson's regiment came up, and were advanced in our front in the road; Scott's and Varnum's brigades followed them. After marching about a mile and a half or two miles, we were halted while some dispositions were making for an attack. After getting to within about half a mile of the Court-house we were informed the enemy were there. I then rode out into the plain and discovered their infantry and horse at the Court-house; then ordered a party of artillerymen to make a breach in a fence, and moved out with the two pieces I had in front. General Lee, who had been, I suppose, reconnoitering the enemy, rode up to me and ordered me back into the woods again, saying, that he did not mean to show them that we had any artillery there, or to show ourselves for the present; some little halt being made respecting some ammunition for Colonel Jackson, Colonel Grayson's regiment, who had been ordered to cover my two pieces I had in front, was then ordered off under Lieutenant-Colonel Parke, to support Colonel Butler, who was then advanced on the left;

some part of Colonel Jackson's regiment was then brought in front, as a cover for the two pieces of artillery. We were then ordered to advance on a road leading nearly to the left, and running nearly parallel to the road the enemy were in. As it appeared to be a difficult road for artillery, and apprehensive that some accident might happen to the pieces from the badness of the road, being miry, rough, and uneven, I was halted in the main road, and riding out into the plain, I saw General Lee again, and requested that I might be permitted to go out in the plain with my pieces, for that I understood from a gentleman who was on horseback, that the enemy were retreating, and the enemy's rear in some confusion. I obtained the General's consent for one piece to go; but on observing I had but one ammunition wagon for both pieces, and that I must either go with both or none, he consented to my going with both pieces, and observed to an officer of light-horse, that a party of the enemy, which was judged to be their rear guard were ours, for that every man of them could be taken, and then rode off into the woods, as I supposed, to give orders for the attack. I brought out my two pieces into the plain, and advanced towards the enemy's rear, when I discovered a body of the enemy's horse charge some persons who appeared in no regular order on horseback, and pursue them near a skirt of wood, where I heard a discharge from our infantry, and saw the enemy's light-horse gallop off in great haste. As they were retiring I fired four or five shot at them from two field pieces, and supposing that the enemy were still retreating, I ordered Captain Wells to limber up the pieces, while I rode on in front to explore a morass to see if I could find a place to pass over with my pieces. I was informed by some gentlemen on horseback, that there was a causeway over

it, over which I passed with the two pieces, advanced into a field of grain near the enemy, when I discovered they had formed in a line. Before I passed over the causeway, Colonel Malmedie called to me, and told me I should lose my pieces if I crossed over there, for there were no infantry on my right. I desired that he would ride into the woods and acquaint the commanding officers there that I was going over the morass, and that it was necessary I should have some infantry to cover me. He rode off into the woods, I supposed for the purpose, and I passed over the morass into the grain field; I then unlimbered and began to cannonade the enemy, and discovered a small body of our infantry coming out of the woods on our left obliquely to my right in front of my pieces, which I first took for a covering party, but found they had passed me. I was under a necessity of ceasing firing until they had passed my front; at the same time I observed General Varnum's brigade obliquing in the same manner in my rear, with their two pieces of artillery. Here I had two men killed and two horses, and the men falling down by the pieces, two or three at a time, fatigued by the heat, so that one of my pieces was disabled, and as I saw no infantry on my right or left but what were retiring, I availed myself of the opportunity of retreating under cover of General Varnum's brigade that was just in my rear. A little in front of the causeway General Lee came up and asked the reason of my retreating? I told him my round shot was all expended, and one piece disabled. He asked me if I had no more ammunition? I replied that the ammunition wagon had not been brought over the causeway, and as it was large and unwieldy I had left an officer to bring it over, but he did not get to the causeway with it before we retired over. The enemy begun to return the

cannonade as soon as I had fired, and continued to cannonade us as we retired, and they were advancing. I then formed the pieces that were with General Varnum's brigade, the two pieces that I brought over, and two pieces under Captain Seward in an orchard, and began to cannonade a column of the enemy that was advancing on our right. That part of the enemy that had formed in line, which I at first cannonaded, it appeared to me, had formed in column, as there appeared to be two columns advancing at a little distance from each other. The enemy's artillery continued cannonading us. Here I remained for some minutes, when I saw the infantry still retiring, and a number of persons on horseback crying out: Retreat! retreat! for that they were advancing on our right and left in columns. I ordered my pieces limbered up and to move off. I had scarcely got in motion when General Lee came up and ordered me to place the pieces there again, and remain till I had his orders to retreat. I renewed the cannonade again, and not many minutes after two or three French gentlemen from the Marquis de La Fayette's suite came and ordered me to retreat with the pieces. I paid no regard to the order, but continued the cannonade. Shortly after this the Marquis came up himself, and ordered me to retreat. I told him I had General Lee's orders to remain there, until I had his order to retreat, and could not retreat. He told me that he had it in command from General Lee that I should retreat, and told me that the enemy were advancing on my left, and that there was none of our infantry on the right, and that I had not a moment to lose, and introduced a French gentleman to me who was to conduct me to an eminence with my pieces in the rear. After I had formed upon this eminence, which I suppose was about a quarter of a mile in the rear

of where I was, I discovered on my left General Maxwell's brigade and General Scott's detachment coming out of the wood upon this eminence I had formed for action, and had taken two pieces from General Scott's detachment and two from General Maxwell's brigade, making in all ten. I heard some person just behind me ask one of my officers what we were doing there with the pieces, and why we did not retreat. I turned my horse about and saw it was General Maxwell. I told him I had my orders; upon which he said, very well, and went off. Soon after Colonel Livingston came up, and told me he was ordered there as a covering party to the artillery. Here again I received various orders to retreat from sundry persons; one of the persons, I understood, was in the Marquis de La Fayette's family. Just after Major Shaw came up, and said that it was General Lee's orders that I should retreat. He rode off, and I prepared to retreat. Just before I had crossed the defile near Carr's house, several persons were crying out, drive on! drive on! As I supposed they had no business there, I paid no regard to them, but ordered the drivers to drive steadily on. Just after I ascended the hill on the plain, Major Shaw came up, and said it was General Knox's order I should form my pieces there; but before this, I had ordered the two pieces I had taken from Scott's detachment, and the two that I had taken from General Maxwell's brigade, to join their brigade again. The two pieces under Captain Wells being disabled by the men suffering from the heat, I had before sent off, so that I had but four pieces left. Here it was I saw Colonel Fitzgerald; I told him that my men were fatigued, two or three dropping down at the time by the side of the pieces, that I should be glad if I could get some fresh artillery brought up. He referred

me to General Knox, who was just in my rear. The General came up to me, and I repeated my request, that I should have some fresh artillery sent up to me. He told me that I should have them. By this time the enemy were pretty near. I observed that Colonel Livingston, who had been ordered to cover me, was not in front, as I faced the enemy. I supposed he had gone into the woods on my left, where Colonel Stewart and Lieutenant-Colonel Ramsay were; but I afterwards understood he was at the hedge-row, where General Varnum's brigade was. The enemy brought up their artillery and the cannonade began between both parties, and the infantry were engaged in the skirt of wood. After engaging some time, I received orders from General Knox to retreat. Captain Seward, who was on the right, moved off the ground; I brought up the rear with Captain Cook's two pieces, and placed them on an eminence, just in the rear of the hedge-row, where I found the troops formed. Through the breaches that had been made in the fence I discharged several grapes of shot at the enemy, the infantry being engaged with them; General Lee at this time being a little distance on my right, observed that the enemy's horse were charging our right, asked where were our horse. The enemy's horse then being on our right, and the infantry retiring from the fence, General Knox came up and gave orders for the pieces to go off. I retired with the two last pieces to the hill where Lord Stirling had taken his position.

General Lee's question.—When I came up to you, you informed me that you wanted round shot; at the time when the first retreat was made, were you not convinced, from everything I said, and from everything I did, that the first

retreat was without my orders, without my knowledge, and contrary to my inclination ?

A. From your asking me that question, the reason of my retreating, I should suppose you did not intend to retreat.

General Lee's question.—Are you certain it was General Scott's detachment and General Maxwell's brigade that you saw come out of the wood, or their artillery only ?

A. I am not certain that it was General Scott's detachment, but I got their artillery, and there was a body of men with the two pieces; but I am certain it was General Maxwell's brigade.

General Lee's question.—As Colonel Fitzgerald, when he spoke of your embarrassment, with respect to your pieces not being supported, do you recollect that then there was a body of men on your left in the wood to support them ?

A. I recollect that there was a body of infantry engaged in the woods on my left, then, but I do not recollect they had particular orders to support my artillery.

General Lee's question.—Through the whole course of the day, did I not show the greatest attention, and take the greatest care, that the battalions should support the artillery, and the artillery the battalions, in all my retrograde manœuvres ?

A. Colonel Grayson's regiment was first ordered to support me; when he was ordered off, part of Colonel Jackson's regiment was ordered to support my pieces, and Colonel Livingston's regiment was ordered likewise for that purpose, all at different times, by you, and I had great attention paid to the support of the artillery by you.

General Lee's question.—Through the whole process of the day, and upon all occasions, was I not perfectly composed and tranquil, and fully possessed myself ?

A. You appeared calm and intrepid, and seemed fully to be possessed of yourself.

Q. What disposition was made for attacking the enemy after you had marched about a mile and half or two miles, and halted?

A. Colonel Butler's corps and Colonel Jackson's corps were advanced on the enemy's left flank in the woods, and I heard General Wayne address himself to the regiment that was in front of the artillery, which I suppose was Colonel Grayson's, and say: Now, my brave Virginians, you are the boys that are to make the attack, or charge; here are the artillery and the infantry in your rear, who are to support you.

Question by the Court.—How great was the number of the enemy that you discovered when they were advancing in two columns?

A. I supposed the number might be between two and three thousand; I formed no exact judgment of the matter.

Question by the Court.—Was the whole of your artillery at all times well supported?

A. I was exposed at different times; no infantry being on my right or left, that I discovered, and had the enemy charged with spirit, I think I must inevitably have lost some pieces upon the last hill, when the enemy's horse had charged upon the right, when General Lee asked where were our horse? The infantry being retiring, had the enemy pushed on with spirit they must have taken the two pieces.

Q. When General Lee came up and ordered you to place your artillery there again after you had began to retreat, had you any infantry then to cover your artillery?

A. I discovered none on my right, but I just before

observed General Varnum's brigade go into the woods on my left.

Q. Did you apply to General Lee then for any infantry to cover your artillery ?

A. I did not.

Question by the Court.—When Colonel Livingston came up and told you he was ordered to the support of the artillery, did he tell you by whom ?

A. I think he said by General Lee.

Question by the Court.—Did you hear Colonel Livingston receive any orders to leave your pieces ?

A. No. I suppose that, not observing that I had halted my pieces, and seeing the infantry retreating, he retreated likewise ; but I understood afterwards he had formed at the hedge-row with General Varnum's brigade. I afterwards got in the rear of the hedge-row, and the infantry there were my support.

General Lee's question.—Do you attribute your pieces being exposed to any want of precaution in me, the fatigue of your troops to accident or to the nature of the manœuvre ?

A. Not from any want of precaution in you, but from the heat and fatigue of the day, both men and horses being exceedingly fatigued.

General Lee's question.—Was not I in as great danger myself as your pieces were when the enemy's light-horse attacked on the right ?

A. You were.

General Lee's question.—When the troops retreated, was I not one of the last that remained on the field ?

A. You were.

The Court adjourns till to-morrow, at nine o'clock.

JULY 23d.

The Court met according to adjournment.

Brigadier-General du Portal being sworn :

General Lee's question.—Did I not entreat you to go up and find out a proper position in our rear ?

A. Yes.

General Lee's question.—Did I give you any reason for not going myself ?

A. I do not remember.

General Lee's question.—When I rode up to the position which you discovered, which you thought was a proper one to halt and face on for some time, did you not observe to me, that that spot was commanded by one in front, which was separated from us by a ravine, and that I should place some pieces of cannon likewise there ?

A. That spot in front was a part of the position I meant you should take.

General Lee's question.—Did I not afterwards request you to go with Mr. Wikoff to look for a position ?

A. I don't remember that you did.

General Lee's question.—Did I not request you afterwards to ride off with some gentlemen to look for a position ?

A. I don't remember that you did.

Captain Cumpiton, of the artillery, being sworn, says :

The action of the 28th of June, I was in General Lee's division, under the command of Captain Cook, with two pieces of artillery, attached to General Varnum's brigade. We left English-Town about sunrise, or a little after, on our march to Monmouth Court-house. The brigade halted about

a half a mile in front of Freehold Meeting-house, with a morass in our front. We got our pieces in readiness for action; about this time there was a skirmish in a skirt of woods in our front, that was said to be by the militia and the enemy's light-horse. I saw the militia retreat, form and advance on the enemy. Shortly after this I saw General Scott's brigade, commanded by Colonel Grayson, advance. In about ten minutes after this, we received orders to limber our pieces, and advance with the brigade we were attached to. We rose a hill in front of the morass about three hundred yards; we there formed, unlimbered our pieces. Shortly after this I saw several persons riding up, among whom was a light-horseman; he said the enemy were advancing. We received orders to limber our pieces and retire with the brigade. By the time the front of the brigade had got to the morass, I saw General Wayne coming in great haste; he ordered the brigade to halt; in consequence of which I suppose the brigade was halted. Shortly after this I saw General Lee; a person, who appeared to be an inhabitant, rode up to General Lee, informed him there was a heavy column of the enemy advancing on our right. General Lee desired him to go about his business, and not again to bring him any such reports. General Lee then ordered his Aid, Captain Mercer, to go himself, and see what number of the enemy there were: Captain Mercer returned in a short time and confirmed the intelligence the General had just before received. We then received orders to retire in rear of the morass, took the same ground we not long before had occupied. A short time after this we received orders to advance; after advancing about a mile I saw General Scott coming out of a field on our right, he said the enemy were in full view. We halted at this place

in the road ; at this time there was a scattering fire upon our right. As we were halted I went up to the side of the fence, I saw several light-horsemen that were exchanging shot singly at each other ; we then received orders to advance, met with a forks of a road, and were ordered to take the left-hand ground. We advanced on the road about three-quarters of a mile, halted in a ploughed field, unlimbered our pieces ; there soon began a fire on our right, in a skirt of woods. Soon after this there began a cannonade from the enemy ; we received orders to file off by the right. This time the enemy were marching obliquely to their left ; we crossed a morass, and retired near to Monmouth Courthouse, we there formed ; by this time the enemy were in front of us. A cannonade began from both parties. The enemy then filed off by their right ; I then lost sight of them by the means of a piece of woods that was in the left of our front. I saw General Lee on our left ; he asked, who in the name of God had ordered the troops from a piece of woods he had placed them in. At this time Colonel Oswald was the nearest to him of any officer I saw ; I did not hear any person give the General an answer, but his expression was, his orders not being obeyed might or would prove the ruin of the day. We received orders to march, retired upon a hill that was to the right of us in our front as we were retiring. By this time our men were very much fatigued that were at the pieces. Some French gentlemen rode up. Colonel Oswald at that time informed the gentlemen who rode up, that the men were so fatigued, it would be necessary that they should form in a wood for the benefit of the shade. We moved from that place, but not in a wood. Shortly after this our pieces were ordered to advance. We advanced ; a cannonade between the enemy and us began ;

the cannonade lasted until we had fired a dozen or fifteen rounds from each piece. * We again received orders to retire, fell in the rear of a piece of wood. After we had halted, I saw a person, who I took to be General Maxwell, coming from the wood which was in our front; he asked Colonel Oswald or Captain Cook, why the pieces of artillery did not move off. He was answered by one of the gentlemen, that we were ordered there with them. Shortly after this there was a considerable skirmish in the woods in our front; our people gave way. General Knox was very near me, and ordered me to give the enemy a shot; I told him I was fearful of injuring our own people, but, to the best of my remembrance, he told me I might fire over their heads, or to their right, or any way so as not to injure our people, but to check the enemy. We then limbered our pieces and retired a short distance, formed in the rear of a party of troops that were there to cover our pieces. The enemy were advancing; a very heavy fire began of musketry in our front and on our left wing. General Knox gave us second orders to give the enemy a shot. I believe our people made a stand there for about two minutes; after giving them two or three charges of grape shot, we were ordered to retire. The main body of our army, as I supposed it to be, were then formed upon an eminence in the rear of the morass we first crossed in the morning. We retired across the morass. By the time we had crossed it with our pieces, there began a cannonade from our army who were on the hill. When I joined the main body of the army, my men were so much fatigued, and only eight of them left with two pieces, that Colonel Oswald ordered me off the field.

General Lee's question.—Do you recollect any point of

time in the day that I did not pay a proper attention to the support of the pieces that you were near ?

A. I don't recollect any part of the day that the pieces were not well supported.

General Lee's question.—Don't you think that the two pieces of Captain Cook's, near the hedge-row, were well supported by a cross-fire of infantry from the woods ?

A. Yes.

General Lee's question.—Do you recollect Colonel Fitzgerald's coming up and speaking to you or Captain Cook ?

A. I don't recollect it.

Lieutenant-Colonel Brooks being sworn, says :

About one o'clock in the morning of the 28th of June last, General Lee received an order from his Excellency General Washington, for detaching six or eight hundred men to advance near the enemy, view their situation, give him frequent intelligence, and in case they retired to attack them ; for which purpose, as the two brigades of Scott and Varnum's consisted of about six hundred, orders were sent to Colonel Grayson, as the commanding officer of the two brigades, to hold himself in readiness to march at the shortest notice. At about six o'clock they began their march from English-Town towards Monmouth Court-house, having been detained for want of guides. At about this time General Lee sent me with orders to the several detachments and Maxwell's brigade, to prepare for marching immediately, leaving their packs behind under proper guard. At about seven they followed the two brigades just mentioned in the following order—to wit, Wayne's and Scott's detachments, Maxwell's brigade, and Jackson's corps. As soon as the whole were in motion, I immediately rode for-

ward towards Monmouth, and found General Lee at the Meeting-house of Freehold. Intelligence was now received by means of the militia, that the main body of the enemy moved from the Court-house at two o'clock, and that only a light party of infantry and cavalry remained to cover their retreat. General Lee now rode on to the height beyond that on which General Washington afterwards formed the main body of the army, where he found General Dickinson and a few militia, Colonel Oswald, with two pieces of artillery, and one battalion of Scott's brigade to cover them. Upon General Lee's mentioning to General Dickinson the intelligence he had received concerning the enemy's retreat, he discovered a considerable warmth, and insisted in the strongest terms that the main body of the enemy were still at the Court-house, and that the situation of the troops now on the ground was, by no means, secure, as there was but one avenue by which the troops could retire to the main body, or words to that effect. During the period of General Lee's staying on this height, intelligence of the most contradictory nature was momentarily brought him; at one time the enemy will be turning our flanks; at another pushing in front; and now precipitately retreating. This occasioned Varnum's brigade and part of Scott's to pass and repass the bridge in the rear of the height several times, as it was agreed on all hands that it was by no means warrantable to risk an action on this ground. During these marchings and counter-marchings, the Marquis de La Fayette, at the head of the main body of General Lee's troops, arrived. General Lee now said, he would pay no farther regard to intelligence, but would immediately march the whole of his command, and endeavor to find the enemy and know their situation himself; for this purpose Jackson's detachment

was ordered from the rear to join the advance corps, the command of which was, about this time, given to General Wayne. The column now began and continued its march for about a mile, till within view of Monmouth Court-house, at which place there was a halt for near an hour, in which interval General Lee reconnoitered the enemy, who put on the appearance of retiring from the Court-house, somewhat precipitately and in disorder. When they had retreated about a mile from the Court-house on the Middletown road, they halted and formed on high ground. General Lee observed, that if the body now in view were all, or near all that were left to cover the retreat of the enemy's main body, instead of pushing their rear and obliging them to retire to their main body, he would have the whole prisoners, to effect which, after having a road pointed out to him for that purpose, he marched his main body to gain the enemy's rear, leaving General Wayne, with two or three pieces of artillery and two or three battalions, to amuse the enemy in front, but not to push them lest his project should be frustrated. After having passed the woods and coming into the plain, about a mile below the Court-house, being at some little distance from the front, I observed the head of General Lee's column filing to the right towards the Court-house. The whole of the column that I perceived hept on in the same direction till the whole made a halt, which lasted about ten or fifteen minutes. A cannonade had now taken place between us and the enemy, who at this time appeared to be gaining the Court-house and our right; at this time the column began its march, and I immediately rode to the left to see what position the troops were in. When I came to the rear of the left of Scott's detachment, I perceived a very great interval between that and the front of

Maxwell's brigade, which at this time were halted in the wood. Upon General Maxwell seeing me, he asked me if I had any orders from General Lee. I told him I had not, but I wanted to know of him why he had made that halt. He said it was thought advisable for him to come out of the wood, as his men were under cover and out of the reach of the enemy's cannon. General Scott came up about this time, and observed that our troops were going off the field towards the Court-house. Upon General Scott's mentioning this, and asking me whether it was the case, I told him I knew nothing of it if it was so. Upon this I left that ground and rode towards the causeway, just in the rear of which I observed Colonel Oswald with some artillery; during this time all the columns, except Maxwell's brigade, were marching to the right. After having seen several battalions pass the ravine, I returned to the point of wood where General Maxwell was, and found General Scott and General Maxwell standing together. General Maxwell again asked me if I had any orders; I told him I had not. General Scott says to me, the army is retreating. Upon which I addressed myself to General Maxwell, and begged leave to suggest to him, that if that was the case, I thought the point of woods a little in his front was a very advantageous situation for him to post his brigade to cover the retreat. General Scott, who stood by, replied, that no time was to be lost, and in terms that rather more than implied advice, insisted that Maxwell's brigade should go to the right-about, and march off the ground, which, by General Maxwell's order, accordingly was done. As soon as this was done, I rode to the point of woods where I advised Maxwell's brigade to be posted, and observed the most of our troops who filed to the right had passed the ravine, and

that the enemy were advancing. Upon observing the enemy and our troops about eight or ten minutes, I returned to the ground where the head of Maxwell's brigade had stood, but finding no troops in sight, I rode towards the ravine to find General Lee ; but, finding the enemy were pushing that way, thought best to return, and came round the ravine, partly in the route that General Maxwell had took, and found General Lee about a quarter of a mile on this side of the Court-house, coming off the ground with a number of columns of his troops. Upon riding up to the General, he says to me, you see our situation, but I am determined to make the best of a bad bargain. The troops, in a very easy, moderate and regular way, continued their march until they had passed the ravine in front of Carr's house, where they were ordered to halt. After tarrying on that ground about one half an hour, I observed some of the battalions marching off the ground. Upon asking several officers who appeared to command the battalions, why they left the ground, they said it was by General Lee's and the Marquis de La Fayette's order. About this time the enemy's cavalry made a very sudden and rapid charge upon some parties of our horse, who were reconnoitering the enemy in front. I tarried on that ground till the whole of our troops had left it. After which I rode to the height upon which the principal action afterwards took place, where I found General Lee and some artillery, Varnum's brigade, Livingston's, and several other battalions. Upon asking General Lee his intention, he desired me to form those troops (pointing to Varnum's brigade) as quick as possible. After having gone through the line, I observed General Washington rising the height, and General Lee riding to meet him. Just as they had met I came up with General Lee. General

Washington asked General Lee what the meaning of all this was: General Lee answered, the contradictory intelligence, and his orders not being obeyed, was the reason of his finding them in that situation. His Excellency showing considerable warmth, said, he was very sorry that General Lee undertook the command unless he meant to fight the enemy, or words to that effect. General Lee observed that it was his private opinion that it was not for the interest of the army, or America, I can't say which, to have a general action brought on, but notwithstanding was willing to obey his orders at all times, but in the situation he had been, he thought it by no means warrantable to bring on an action, or words to that effect. After this, General Washington left General Lee, was gone some considerable time, and returned. During General Washington's absence, General Lee observed some troops on the right in motion; upon inquiring the reason, he was told by one of his aids, that it was done by General Washington's order. At this time, being asked whether some battalion should move from its present ground, General Lee replied, that he supposed General Washington meant he should have no further command, and he could not say that he had a right to give any orders respecting the matter. Just after this, General Washington returned, and asked General Lee if he would command on that ground or not; if he would, he would return to the main body, and have them formed upon the next height. General Lee replied, that it was equal with him where he commanded. Upon this General Washington rode off the field; General Lee rode to the right. I never saw him afterwards on the field but at a distance. The enemy at this time had advanced towards our right with their artillery, and a heavy cannonade between them and

our artillery had been commenced for some time, and our troops who were engaged in the woods were pushed out, the enemy being very close upon them.

General Lee's question.—As you acted as Adjutant-General to my department, what number of men had I in the field that day under my command ?

A. General Scott's detachment, when it left the main body, consisted of about fourteen hundred and forty ; General Wayne's of one thousand, General Maxwell's brigade, as he told me, of nine hundred, Varnum's brigade of a little better than three hundred ; Colonel Olney, at the time, told me it was between three hundred and three hundred and fifty ; Scott's brigade was less than three hundred, Jackson's detachment of two hundred. When you marched from English-Town you ordered all the packs to be left, under the care of proper guards. After the troops had paraded to march at English-Town, I rode through the different encampments and found the baggage very strongly guarded. Upon riding up to several and inquiring the reason of so many men being there, I was answered in general that they were men who were lame, sick, and those who were worn out with the march the day before, together with the guards who were left with the baggage. The idea that I then formed of those left on the ground was, that they were between four and five hundred in the whole.

General Lee's question.—Did you advise General Scott and General Maxwell to remain on the ground ?

A. I observed to General Maxwell more than once, that the point of woods in his front was a very excellent post for him to take while the troops were passing that ravine, as the enemy would not push the rear of the troops who were passing it, while that ground was occupied by his brigade.

At the same time, upon the Captain of his artillery inquiring whether that ground was suitable for artillery, I observed to him that it would command the enemy partly in flank. I had no conversation with General Scott upon that subject.

General Lee's question.—Did General Scott hear you address yourself to General Maxwell?

A. By what followed I then supposed he did.

General Lee's question.—Do you know the ground which General Scott's troops occupied at the time you had this conversation with General Maxwell and General Scott?

A. Four minutes before the conversation took place I knew the ground they occupied.

General Lee's question.—Did you hear me express great indignation at General Scott's quitting his ground?

A. I did repeatedly.

General Lee's question.—Did I not give you every reason, from what I said and from what I did, to think that the first retreat was against my inclination and without my orders?

A. Upon my first coming up with you, some distance this side of the Court-house, after the retreat began, you informed me that several battalions had retired without your knowledge, and contrary to your orders; but observed, although it was extremely unsoldierly, yet you believed it to be a very happy thing for the army, as the enemy were so much superior both in infantry and cavalry, in cavalry especially; for had that not been the case, that whole detachment at least must have been sacrificed, or words to that effect.

The Court adjourns till to-morrow, at nine o'clock.

JULY 24th.

The Court met according to adjournment.

General Lee's question to Lieutenant-Colonel Brooks.—Did you see General Scott, and at what point of time, at the point of wood to which the head of the column had been marched ?

A. I saw him and part of his troops in the wood. The head of the column at this time had arrived nearly in front of the orchard where Colonel Oswald afterwards took his post. When I first came into the open ground I rode up to the point of woods to take a view of the enemy ; after tarrying there a few minutes, I returned and rode to the right of the column as far as Varnum's brigade ; after tarrying there a few minutes and returning, I found the whole of, as I supposed, General Scott's detachment in the plain field to the right of the wood ; his right battalion near the ravine and his left near the woods. I never saw him in the woods after that.

General Lee's question.—How long a time was it after you left the spot where General Scott and General Maxwell stood, before you returned to it again ?

A. I think it was not more than eight or ten minutes.

General Lee's question.—Do you think that spot was evacuated before the troops on the right made any retrograde manœuvre ?

A. When I returned the second time from the right to General Maxwell's brigade, the idea I formed in my own mind, from what I saw of the troops on the right, was, that their point of view to which they were marching was rather in front of the village. When I saw Maxwell's brigade forming a disposition to retire, it was the first time that I had any thoughts of the troops leaving the ground. From what I observed, the retreat began upon the left.

General Lee's question.—When I rode to the right, had you a horse to accompany me ?

A. I had not, and gave up every idea of keeping with you.

General Lee's question.—Where and on what business do you think I went about when I quitted you ?

A. You went to the right towards where our troops were, as I supposed, to see that they were properly disposed of.

General Lee's question.—Did you, through the whole process of the day, upon any occasion, observe that I was the least disconcerted or discomposed ; and did I not appear to you as thoroughly possessed of myself as in common ordinary conversation ?

A. You appeared, through the whole course of the day, to be as cool and deliberate, and thoroughly to possess yourself, as I can have any idea of.

Q. When General Scott observed that our troops were going off the field towards the Court-house, did you observe any of our troops in motion at that time ?

A. When I came from the right the line was halted. I could not see our troops when General Scott made that observation to me.

Q. How long was it after you left General Scott before you saw our column marching to the right ?

A. Not more than six or eight minutes.

Q. After that observation of General Scott, that the troops were going off, did you see General Scott's troops ?

A. I did.

Q. Did you see them in motion after that ?

A. When I returned from the right the second time, and came, as I observed yesterday, to the ground between Gen-

eral Scott's detachment and General Maxwell's brigade, the conversation ensued which I mentioned yesterday, concerning General Maxwell's going off the ground. As soon as General Maxwell's brigade went to the right-about, I went to the point of wood, and, looking to the right, observed Scott's detachment, or troops that I supposed to be his, going off the ground obliquely to the rear.

Q. Did you observe any other troops in motion at that time?

A. I did not. The cannonade was still continued. The troops on the right might have begun their retreat, but I did not observe it.

Q. Were you in such a situation that you could have observed them had they begun their retreat?

A. I was.

Q. Were the troops on the right ordered to retreat in consequence of General Scott's detachment and General Maxwell's brigade moving off to the left?

A. I know nothing but what General Lee told me, that they retired without his orders, which obliged him to leave the ground.

Question by the Court.—From the observations you made, which wing did the enemy press hardest upon, the right or left?

A. They appeared to be endeavoring to gain the right. I did not see that any were pressed upon hard.

Question by the Court.—Was any person sent to halt the retiring troops upon the left, that you knew?

A. Not to my knowledge?

Question by the Court.—Did General Lee communicate to you his plan of cutting off that body of the enemy in the rear?

A. He communicated to me no other plan than marching his main body into the supposed interval between the main body of the enemy and their covering party.

Question by the Court.—Had General Scott or General Maxwell any particular orders from General Lee respecting his plan, to your knowledge?

A. They were ordered to march on in the column in their proper places. I do not know of any other orders being given. I informed the commanding officers of most of the regiments of General Lee's intention; that the enemy were on our right, and that General Lee expected to surround and take their rear guard.

Question by the Court.—When you speak of troops going from the right towards the Court-house, what corps were they?

A. Arnum's brigade, and General Wayne's detachment that he commanded when he left Cranberry.

Question by the Court.—Did General Scott's troops pass the causeway in their retreat?

A. Some of them might. I could not see the whole on account of a very heavy dust; but by the appearance I supposed they passed the ravine on the left of the causeway.

Question by the Court.—How long was it after they passed, that you were going to pass the ravine, thought it not safe, and went round?

A. It was about five or six minutes. I was about ten at the point of woods, and they passed while I was there.

Question by the Court.—When you saw the troops upon the right going to the right towards the Court-house, if a retrograde manœuvre had been then determined upon,

would it not have been as well effected by the way of the Court-house as any other way ?

A. I think it would not.

General Lee's question.—In the situation the enemy were then in, in going towards the Court-house, did we not go nearer to them rather than farther off ?

A. It was ; as both, I supposed, were aiming at the village.

General Lee's question.—When I communicated my intention of cutting off the enemy's rear, did you not understand I intended to take the command in person of the column General Scott was at the head of, and not leave it to him ?

A. You observed to me, about the time you communicated to me your intention, that the column that went to the left you should command in person. A little before this you observed that you did not know but some of the general officers might take umbrage at their disposition, not having their places according to their rank ; but, as you meant to command the main body in person, thought they could make no difficulty or have no objection.

General Lee's question.—In our situation, was it possible that any general could, without seeing more of the enemy, form a precise plan ?

A. It was impossible, on the ground that you were on when you reconnoitered the enemy, to see the rear of the enemy's left or the road that led to their rear, so that a precise plan could not be formed. As you marched at the head of the column yourself, I took it for granted that you meant to make your dispositions as you found the enemy.

General Lee's question.—When I left the column did

you not understand I went to the right to reconnoitre the enemy ?

A. I saw you in front reconnoitering, and expected you back to that point of woods again.

Question by the Court.—After the first retreat did the troops form again ?

A. After the troops had retired down to a fence near Carr's house, they were ordered to halt. After they had halted a few minutes I observed some troops on the right of the house, which I took to be Varnum's brigade, forming in an orchard. Soon after the enemy's cavalry made a charge and came near that house, at which time I saw some troops, who they were I can't say, form the line and advance up to the fence.

Question by the Court —Was Maxwell's brigade or Scott's detachment there ?

A. Neither of them, to my knowledge.

Question by the Court.—How long were the troops formed between the end of the first retreat and beginning of the second ?

A. I cannot precisely determine, but I should judge about an hour.

Question by the Court.—Who gave the orders for the second retreat ?

A. I never heard any orders given for it.

Question by the Court.—What troops began the second retreat ?

A. As I was advanced of Carr's house during almost the whole time of that halt, I could not determine; but the first that I saw, was Colonel Stewart's regiment, with the Marquis de La Fayette at the head of it. I supposed by

appearances, that several battalions had moved off before them.

Question by the Court.—After General Lee informed you of his intention to command the left of the army in person, did he join those troops?

A. Yes, immediately.

Q. When you saw General Scott's detachment going off the ground obliquely to the rear, did you see the enemy at that time?

A. Yes.

Q. Had their front entered the village at Monmouth Court-house?

A. I think it had not.

Q. Were they marching towards the Court-house?

A. They were not steady in their march, sometimes would move, and sometimes halted.

Question by the Court.—How great a number of the enemy did you see when our troops began to retreat?

A. I don't remember through the whole course of the day to have attempted to have made an estimate of their number. From General Dickinson's intelligence, and on seeing from the point of woods, instead of a light party, as was represented by the militia and others who brought intelligence, a heavy column moving towards the Court-house, or to our right, the idea at once struck me that their manœuvre for retiring from the Court-house in the manner they did, was a mere finesse, and that their whole army was then on the ground.

Q. Did the troops retreat in order or disorder, and in what particular manner?

A. The retreat from the Court-house to Carr's house was performed, as far as I saw it, with great deliberation and in

good order ; they retired in general, I believe, in columns, by battalions, some by brigade. From Carr's house I did not see them so particularly, until they got on the other hill, being in the rear of them.

Brigadier-General Knox being sworn, says :

The first I saw of General Lee was near Monmouth Court-house, to which place I was sent by his Excellency General Washington, for a particular purpose. The troops of General Lee were then marching by their right in platoons of sub-divisions, and appeared to be gaining the Court-house ; the enemy were at some distance, and appeared to be extending their front ; the enemy were firing from some pieces of cannon, which was returned by some pieces under the direction of Lieutenant-Colonel Oswald. I had a short conversation with General Lee, and mentioned to him a morass which lay directly in his rear. He replied, that he was not sufficiently informed of the ground before that he came on it, and, that the morass was a disagreeable circumstance, but that he would endeavor to make the best of it ; I left him at this time, and returned to his Excellency General Washington. I saw General Lee a second time, about a mile and a half in the rear of the Court-house, on this side of the ravine, opposite to which the British troops had retreated and took post in the evening. His Excellency General Washington and he were together ; his Excellency expressed much displeasure to General Lee at the situation of affairs, and though I cannot ascertain the precise words, the sentiment was, that either he or General Lee must take the command of these troops, speaking of the troops that were present, and that it must be in an instant determination ; if you will take the command, continued his Excel-

lency, I will go into the rear and form the army ; General Lee replied, I will do everything in my power, and your Excellency may rely upon it that I myself will be one of the last men off the field. His Excellency directed me to have some cannon brought up and played upon the enemy, who were then cannonading from the opposite road, and directed me to stay with them, and then galloped off to the rear. I asked General Lee why the troops retreated from the Court-house ; he answered that he could not tell, for he never saw such disorder, for every one took upon himself to give orders without his knowledge. Some of the cannon which had been out with the detachment were then on the field. I ordered my Brigade-Major, Mr. Shaw, to bring them up to a particular advantageous piece of ground. General Lee, in very forcible terms, pressed me to hasten them, and added that the place was very favorable. In two or three minutes, Lieutenant-Colonel Oswald, with Captain Stewart's and Captain Cook's companies, with four pieces of artillery, were placed and began to fire on the enemy, and continued to do so, until the troops placed in the woods on the left were driven from it. We had no troops on the right as a covering party. I applied to General Lee in strong terms for a party on the right ; he said he was very sensible of the propriety of the measure, and desired me to take the first troops I could get to place there. I asked permission to place Colonel Jackson's detachment there ; he said it would be very agreeable to him, and he wished that I would ; but before it could be effected we were obliged to retreat, by reason of the wood being carried on our left, and the enemy's horse crossing the ravine and marching to our right. The field pieces were repeatedly unlimbered and fired on the enemy, who advanced on our front in a scattered manner.

Major Shaw, not readily finding Colonel Jackson's detachment, desired Lieutenant-Colonel Olney to take post at a hedge fence in front of a bridge over which we retreated. At this time, the enemy's light-horse were making a rapid movement upon our right, and we had retired with the pieces in the rear of the hedge fence, where General Lee desired me to have the artillery unlimbered, and observed at the same time, that a particular knoll to which I was directing them, was formed by nature for that purpose. After a few cannon shot being fired at this place, the party posted at the hedge-row under Colonel Olney were attacked in front, and from a wood on the left, and the movements of the enemy's horse on our right obliged us to retire over the bridge in front of the grounds where Lord Stirling, with the left wing of the army, took post. After this I did not see General Lee.

General Lee's question.—Do you recollect when I complained to you of every body's giving orders, that I complained to you of some officers disobeying my orders ?

A. I do not recollect the circumstances.

General Lee's question.—Did I observe to you how unlucky the eminences were situated through the country ; that those near the enemy regularly commanded those near us ?

A. I recollect the circumstance.

General Lee's question.—Do you recollect the two regiments that were placed in front of the cannon, being so excessively fatigued that they had not the power of removing either to the right or to the left, to give the cannon a free passage to fire upon the enemy ?

A. I recollect Colonel Livingston's regiment being in that case.

General Lee's question.—Did you think whenever you saw me, that I was perfectly master of myself, and not in the least discomposed?

A. I thought you perfectly master of yourself; the circumstance of pointing out the knoll, I thought a very good proof of it, though not the only one.

Brigade-Major Shaw being sworn, says:

I was with General Knox at the time he was ordered by his Excellency with Colonel Hamilton down to Monmouth. When we came within about three-quarters of a mile of the Court-house, at which time there was a cannonade between the enemy and us, I was directed by General Knox and Colonel Hamilton, to ride down a road upon our right hand, where there was a thick wood, to see if any of the enemy had passed that way. When I returned, our advanced corps were then moving off; the first I saw of General Lee was near the wheat field, at which time General Maxwell was with him; I then left General Lee. The next I saw of General Lee was upon a piece of ground, a little in front of the hedge fence where Colonel Olney was afterwards brought up to support some artillery; upon General Knox's observing that it was a suitable place for artillery, and having General Lee's concurrence, I was ordered by General Knox to desire Colonel Jackson, if I could readily find him, to come with his detachment and support the four pieces of artillery under Colonel Oswald; not readily finding Colonel Jackson, I applied to Colonel Olney, who was leading General Varnum's brigade, and desired him to form along the fence to support the artillery, which he did. Nearly about that time, his Excellency came down and addressed himself to General Lee, saying, as near as I can recollect, that we

must determine immediately, whether you or I shall command the troops here; if you will command them I will ride and form the army in the rear. General Lee's answer was, I will do everything in my power, and shall be one of the last off the field myself. When I carried General Knox's orders to Colonel Oswald to remove to a piece of ground pointed out by General Lee and himself, he hesitated at obeying it, and said, that he had received so many different kinds of orders, that he did not know which to follow; I told him that he knew me and those by whom I was sent, and that he would be answerable if he did not obey the order.

The Court adjourns till to-morrow, at nine o'clock.

JULY 25th.

The Court met according to adjournment.

Captain Stewart, of the artillery, being sworn, says:

I think, as near as I can recollect, on the 28th of June, I was on command with the Marquis de La Fayette. On the road to the left of Monmouth Court-house, about a mile, and about half after ten o'clock in the day, I heard the discharges of several pieces of cannon and some musketry in front; I immediately unlimbered my pieces, and on that the enemy were making a charge with their cavalry; General Lee came up and ordered me to limber, and be ready to march on immediately towards the enemy, towards Monmouth Court-house; at the same time General Varnum's brigade, and the Marquis's detachment, obliqued to the right, leaving General Scott's brigade and Colonel Jackson's corps on our left. I received orders from Major Shaw to pass

the morass in our rear, and to take post behind; there I unlimbered and kept a heavy fire of cannon on the enemy, the troops retreating under the fire of the cannon over the morass. The enemy then appearing in great force in our front, I fired fifty odd shot, and received orders from Lieutenant-Colonel Oswald to cover the retreat of Captain Cook's two pieces, and go on to another piece of ground in our rear; there I fired about forty shot, when the Marquis ordered me to retreat, and General Lee came and ordered me still to keep up the fire, as it was of service; at the same time I had a party of troops on my left to line the edge of the wood to cover my pieces. The wood was on the left of the hedge-row, and a small party of horse on my right; there I continued until I received orders from General Knox to go off the field.

General Lee's question.—Was not the greatest attention paid, in the course of the day, to the covering and supporting of the artillery in the different points of action?

A. Yes, both in advancing and retreating, and done in great order.

General Lee's question.—What time of the day was it you were ordered off the field?

A. As near as I can recollect, it was near upon three o'clock.

Q. What number of the enemy appeared?

A. From eight hundred to one thousand cavalry, and from six to eight thousand infantry, and ten pieces of cannon.

General Lee's question.—Did you observe the size of the enemy's cannon?

A. One twelve-pounder and the rest sixes.

Captain Edwards, Aid-de-Camp to Major-General Lee, being sworn, says:

On the morning of the 28th of June, I think between one and two o'clock, a letter was put into my hand by Mr. Dunscomb, officer of General Lee's guard, from Colonel Hamilton to General Lee, agreeable to the contents of which, General Lee desired me to write to General Dickinson, Colonel Morgan, and Colonel Grayson; the purport of the letter I wrote to General Dickinson was, to select out about eight hundred of his best men, and to detach them as near the enemy's rear as he could. These troops were to act as a corps of observation, and to forward the earliest intelligence to General Lee respecting the enemy; the purport of what I wrote to Colonel Morgan, I think, was for him to advance with the troops under his command near the enemy, and to attack them on their first movement; it was left to his discretion how to act, only that he should take care and not expose his troops so much as to disable him from acting in conjunction with General Lee, if there was a necessity for it. The letter to Colonel Grayson was, that he should get the brigade under his command in immediate readiness to march, and to send word when they were ready. In the morning, I think about daylight, Colonel Grayson appeared with his men at English-Town, and applied to General Lee for proper guides; General Lee sent me to procure some for him, but the guides who were ordered to remain with us were not to be found. I went through the town to procure others, that he might get off as soon as possible. Colonel Grayson observed, that it was a matter of consequence, and that he did not choose to move with any guides but those who are known. General Foreman came to General Lee's quarters, and said he would procure guides, which I supposed he did, as Colo-

nel Grayson soon marched off. Colonel Grayson's orders, I believe, then were to march on about two or three miles, and then halt. General Lee, from some intelligence, which I supposed he had received, sent me forward to order Colonel Grayson to push on as fast as possible and attack the enemy. Before I got up with Colonel Grayson, I met with one of General Dickinson's Aid-de-Camps, who informed me the main body of the enemy was near Monmouth Court-house, and he believed they were marching to attack us; he told me he was going with this information to General Washington; I told him he would meet General Lee upon the road, and he had better tell him of it also. I then proceeded on and overtook Colonel Grayson, who had at that time passed the Meeting-house; I told him of the orders that I had from General Lee, but that I supposed General Lee was ignorant of the present situation of the enemy, and that I fancied he had better not move on. Colonel Grayson went with me to General Dickinson, who was just ahead, advanced over a causeway. General Dickinson asked me where General Lee was; I informed him, coming on just behind; he told me we might rely upon it that the enemy had not moved, but were drawn up this side of the Court-house. I told him I would go back and inform General Lee of it myself. He called me back, and begged I would tell General Lee to post a brigade on the road which led to Craig's mill, for he was very apprehensive the British troops would send off a large column down that road, and another upon his left, and cut him off. He asked me if I perfectly understood him; I informed him I did, and went and informed General Lee of it. I rode back and told Colonel Durgée to take the best position he could, until he had further orders. I met General Lee and delivered him

the message from General Dickinson. He sent Mr. Mercer to order General Maxwell's brigade upon that road, but observing two militia regiments, he told me to ride on and to post them upon a high hill that was on the road leading to Craig's mill. General Lee then proceeded on to General Dickinson, who gave him the same information he gave me. There were a number of militia officers there, who went out reconnoitering, some of whom brought intelligence the enemy had moved off, and it was only a covering party that remained. General Lee then sent me to order Colonel Durgee's brigade to advance over the causeway, which they did, with the artillery. Then, upon other gentlemen's riding up, and positively asserting the enemy's main force was still there, and was filing off in columns to the right and left, Colonel Durgee's brigade was ordered back again to take post upon the same hill. About this time much intelligence was brought by people riding backwards and forwards, equally contradictory, and equally apparently authentic. General Lee then said he would not believe anything he heard, but would advance forward with the troops himself and know their situation, which he did through a wood upon the left. Some time before we got to the Court-house, the detachment with Colonel Butler marched in line of battle through the wood, but upon General Lee being informed that there was a large morass ahead, and they could not march in that manner, he ordered them to advance in column from the centre. Just before they arrived opposite to the Court-house they were ordered to halt, and General Lee went out upon the right with General Wayne to reconnoitre their situation, where a party of horse and some infantry presented themselves to view near the Court-house. A few men were picked out to keep up a scattering fire upon them.

General Lee desired me to take two light-horsemen, and go to a road that led to the left of the Court-house, and endeavor to get in the rear of it, to discover, as near as I possibly could, their numbers. I went, and got into the rear, and saw about five or six hundred filing off from the Court-house, and, I thought, precipitately retreating. I rode back to General Lee, and observed to him what I have related. He asked me if artillery could go up that road; I told him they could; he told me to take Colonel Durgee's brigade, with two pieces of artillery, and pilot them up that road, and get on their flanks and attack them. I led the brigade up the road that I had been; I then discovered the troops under General Wayne's command on the right advanced. I told Colonel Durgee that I had led him as far the road as I knew anything about, and consequently I had nothing more to do with him; that I would ride forward to the troops I saw advanced on the right to find General Lee. I rode on to where General Wayne was drawn up; I saw the enemy paraded just in the edge of the wood in front, upon an eminence with their dragoons. There were a few of our light-horsemen, who were advanced upon the right, at a very considerable distance. I saw the British dragoons parading, as I thought, to make a charge upon our dragoons. I rode up to the dragoons, and desired them to let the British horse come as near as they could, with safety, and then retreat off towards where General Wayne was, and let him receive them. The British horse pursued until they came near General Wayne, when, upon receiving a fire from our troops, they wheeled off to join their main body. General Wayne then advanced, encouraging his men to advance on and charge the enemy with bayonets. I rode back to General Lee, who sent me forward to General

Wayne again, with orders that he should make a feint or show of attack upon the enemy, for that General Lee had sent round a large column upon the left to surround and take them, if they should prove to be but a covering party, and that if General Wayne pushed on too precipitately it would subvert that plan and disappoint his intentions. These orders were delivered to me at that time, in such a particular manner that they indicated a certainty of success. I went and delivered them to General Wayne, and upon my return found General Lee advancing with Colonel Oswald towards the enemy with some artillery. A cannonade soon began; after exchanging a few rounds, our artillery began to retreat; General Lee observed it, immediately rode up, and asked the reason of it; Colonel Oswald answered that all his round shot was expended, and that the wagon with the ammunition was the other side of the ravine, which he thought would not be safe to bring over. We then observed a column of the enemy moving to our right; some gentlemen rode up to General Lee, and said the enemy were advancing in a large column, as he supposed to gain our rear or the Court-house. Our troops then began their march towards the head of the column of the enemy, which was marching towards the Court-house. General Lee was at the head of our troops who were marching; I rode up to him, and after going some little distance he told me he had sent Mr. Mercer back to tell General Scott to defend that ground that he was upon, but, that there might be no possible mistake, he desired me also to ride back with the same orders; in riding back I met Mr. Mercer just at the edge of the wood; I observed to him that I was going with orders to General Scott to defend that ground; he told me that General Scott had moved off; I asked him what we

should do then, for it was General Lee's particular orders that that place should be defended; Mr. Mercer made answer so it was, and he could not help it. In riding back to General Lee we saw some troops in the wood upon the left retiring, which Mr. Mercer observed he supposed were General Scott's. At this time I had not the least idea of our troops retreating, but that they were inclining obliquely towards the head of the enemy. We rode on till we came up with General Lee, and told him that the troops upon the left were gone; General Lee would scarcely believe it, and expressed in strong terms his disapprobation of it. A little after this our troops began to retire, by whose order I don't know. After retiring some distance General Lee ordered me to have some artillery drawn up on an eminence, some considerable distance in front of Carr's house, and ordered me to fix some troops on the left of the artillery in a wood to support it. I ordered Colonel Stewart with the troops that he was at the head of, to take post in that wood for the support of that artillery. General Lee likewise ordered me to have some troops posted in a little point of brushwood, a little in the rear upon the right of where the artillery were drawn up. I ordered Lieutenant-Colonel Parke with the troops that he was at the head of, to take post in that wood; the reason I gave him for it was, that if the enemy extended their left, it would be a support to that artillery in his front. I think it was a little after this that General Lee rode up to Mr. Wikoff, and asked him, as he knew the country, where would be the best ground for him to make a disposition with his troops, that he might prevent the enemy from out-flanking of them with their cavalry. Mr. Wikoff pointed back to that hill, where our army was drawn up on when we arrived at it, and said that it was the best ground

he knew of. The troops under General Lee continued their march, as I supposed, to avail themselves of that ground. Some distance forward, some artillery being drawn up on a hill, General Knox applied to General Lee for some infantry to support it: General Lee ordered me to bring that regiment, pointing to Colonel Livingston's, and ordered them upon the right to support that artillery. Colonel Livingston made answer, that his troops were excessively fatigued, but that he would obey. On Colonel Livingston's coming up, he got in front of the artillery; a column of the enemy at that time presented themselves very fair; General Lee ordered the troops to open to the right and left, to give the artillery an opportunity of playing on the enemy. There were some troops coming out of the wood upon the left of the artillery, in front of it, at the head of whom was Lieutenant-Colonel William Smith. General Lee ordered me immediately to order him to go back and to defend that piece of wood for the support of the artillery. I went and delivered Lieutenant-Colonel William Smith the order. General Lee then gave orders to have General Varnum's brigade drawn up in our rear, behind a fence, to cover the retreat of the artillery, and the troops advanced with them. We then rode on and met General Washington.

General Lee's question.—Was I not, in the whole course of the day, calm and composed, and thoroughly master of myself?

A. I did not observe the least embarrassment in you, but much the reverse, as every order you delivered me was delivered with the same coolness as in common when out of the field.

Question by the Court.—What number of the enemy appeared that day, in your opinion?

A. I did not that day attempt to make any computation of the enemy, except the time I was sent to reconnoitre them back of Monmouth Court-house. I saw columns appearing in sight, but as I could not see the rear of them I could form no manner of judgment, but I had not a doubt then but that their chief force was there.

Question by the Court.—What number of the enemy do you now suppose you saw that day ?

A. Two thousand might have appeared in my sight, but I did not see their rear.

Question by the Court.—Did you know or understand by whose orders, or by what means, the troops on the right in the first instance retreated ?

A. I had not a doubt but it was on account of General Scott's retreat upon the left, as General Lee expressed so much uneasiness at that post being left, but I do not know by whose orders.

Q. How long a time after our troops first inclined to the right was it that you met Major Mercer, who informed you that General Scott's troops had left their ground ?

A. I cannot now justly ascertain what length of time it was, but it might be fifteen or twenty minutes.

Q. Were any orders sent to halt the troops that were retreating after they began to retreat ?

A. Frequent orders were given to different parts of the troops on the right to halt at different times to support the artillery. I heard General Lee likewise give orders to General Maxwell's brigade to take post in the wood over a morass some distance in front of where General Washington's position was.

Q. When you informed General Lee that General Scott's

detachment was gone off from the post they occupied, did he send you to discover where that detachment was ?

A. No.

Q. When you were sent with orders from General Lee to General Scott, did you go to the ground that detachment occupied ?

A. I did not, for the reasons given in the body of my evidence.

Q. Did you see General Scott's detachment afterwards that day on the retreat ?

A. I did not, to know them.

Question by the Court.—At that time Mr. Wikoff pointed to the ground you have mentioned, were you then in sight of it ?

A. I think we were, but am not certain.

Question by the Court.—Did he describe it in such a manner that you knew it to be the identical ground ?

A. I particularly recollect that he did.

The Court adjourns till Monday next, at nine o'clock.

JULY 27th.

The Court met according to adjournment.

General Lee's question to Captain Edwards.—Do you recollect when I came up to General Dickinson what intelligence I received with respect to the ravine then in our rear, and of the nature of the country ?

A. Upon your making inquiry respecting the country, you were informed by General Dickinson, or some of the gentlemen with him, that that ravine was not passable for troops and artillery in any other place but at that bridge.

General Lee's question.—Do you think I paid proper attention from the first retrograde manœuvre through the intermediate space until I fell in with General Washington ; and in what manner do you think it was executed ?

A. You, as I have already mentioned, gave me and others frequent orders relative to the retreat, in posting troops for the security of the artillery. The troops marched in great order, and took their post regularly, except some at the latter part of the time, which were broke by a charge from the enemy, and which you yourself, in my presence, rode up and ordered to form again. The answer from the commanding officer of the troops was, that he could not form the men there, on account of a ravine or hollow, but would as soon as ever they got on plain ground.

The Court adjours till to-morrow, at nine o'clock.

JULY 28th.

The President being indisposed, the Members adjourn till to-morrow, at nine o'clock.

JULY 29th.

The Court met.

The proceedings having been read by desire of Major-General Lee, he requests until Monday to prepare his defence.

The Court do consent to General Lee's having till Monday to prepare his defence, and adjourn till Monday, at nine o'clock.

AUGUST 3d.

Captain Steth being sworn :

Q. Did you carry any orders from General Lee the 28th of June ?

A. Yes.

Q. What orders did you carry ?

A. The first order I remember to have carried from General Lee was, to order a party of men that were coming across the plain towards the Court-house, to cross a little meadow and to take post on a small height on the other side on the left of the Court-house. When we had retreated some distance, I carried another order from General Lee, which was for a party to take post in a piece of wood. The party was on the left, or rather in front, as we retired, and when I carried them orders, was in a field between the field of battle and the Court-house.

Q. Did you carry any orders to the Marquis de La Fayette ?

A. I carried no order to him that I recollect.

Q. Were the troops, when they were coming across the plain, advancing to the enemy or retiring from them ?

A. They were marching nearly parallel with the enemy towards the Court-house.

Q. Was the height they were ordered to take post on, in the rear of the line the troops were marching on, or in front of it ?

A. It was rather in the rear of the line.

Question by the Court.—Whom did you deliver the order to, you first carried ?

A. To the commanding officer of the detachment, but I do not recollect his name.

Question by the Court.—Did the troops take post on the height agreeable to the orders you carried ?

A. I did not see them take post; I left them as soon as I had delivered the orders, and rode on after General Lee to the village.

Question by the Court.—How long did you stay in the village with General Lee ?

A. I do not believe I was there ten minutes.

Question by the Court.—Where did you go to from the village ?

A. I left the village with General Lee; we went into the field, and from there to the field we met General Washington.

Question by the Court.—Were the troops retiring at the time you left the village ?

A. I believe they were. There was a piece of artillery retreating, and General Lee went up and ordered the officer to turn back towards the enemy.

General Lee's question.—Did you conceive when I ordered the troops to take post on the height, that it was with an intention to retreat, or to put them in a better position ?

A. I conceived it was to put them in a better position.

General Lee's question.—Do you recollect my exclaiming against particular officers for evacuating posts they were ordered to ?

A. I heard you say once or twice that officers had left their posts. I remember your mentioning General Scott particularly.

General Lee's question.—When I ordered the officer back with the piece of artillery, when he was retreating, do you recollect whether he mentioned to me that he had orders to retreat ?

A. I do not recollect.

General Lee's question.—In the course of the day did I not appear possessed of myself, and not in the least disconcerted?

A. I saw nothing to the contrary.

Major-General Lee not being prepared to make his defence, requests the Court will give him until Thursday next.

The Court having considered the matter, consent to the General's having until Thursday next to prepare his defence, and adjourn till Thursday, at nine o'clock.

AUGUST 6th.

The Court met according to adjournment.

General Lee not being fully prepared for his defence, the Court adjourn till Sunday next, at nine o'clock.

AUGUST 9th.

The Court met according to adjournment.

Major-General Lee produces a deposition of Mr. Peter Wikoff, which, being admitted as evidence and read, is as follows:

On my informing Major-General Lee that I was perfectly acquainted with that part of the country where the action happened on the 28th of June last, and if I could be of any service to my country or to him, I begged he would command me to do anything he thought proper. He requested me to show him some place where he might order his troops,

to be secure against the attacks of the enemy. I pointed out a place in a wood southerly of the old house at which the enemy formed after they retreated from the field of action. General Lee said, "there was not time to take them there; that the enemy were pressing too close upon us," and desired me to direct him to some other place; I then showed him Comb's hill, where, I told him, he would have a morass on his front and left, and a wood on his rear; that the enemy could not attack him there without apparent disadvantage to themselves, unless it was on his right, and to get there they must go three or four miles round; but if he wanted to carry his field pieces and ammunition wagons with him, it would be necessary to lay a causeway over that morass, for it was very miry, and no carriages could go over it except that was first done, and that I thought it might be effected in a few minutes with rails, as there were fences all around. General Lee made answer, that if it was not already done, we had no time to do it in; that there was no time to be lost, or words to that effect; and he then begged me to conduct his troops under cover of some wood, for he could not make them stand in a plain or open field so well as in the woods; but, at the same time, said that he thought our men were equally brave with any men in the world. I then pointed out to him a wood and eminence adjoining, which General Lee approved of, and begged me to lead his troops on and show them the place, which I did. The eminence was the very piece of ground his Excellency General Washington afterwards formed his army on. But previous to General Lee's sending any troops to the last mentioned place, he threw a number of troops into a skirt of woods on the right of the enemy, and on the left, where Colonels

Stewart and Ramsay first formed their regiments, and where, as I believe, the first heavy firing of musketry began.

Personally appeared before me, John Ord, Esq, one of the Justices, &c., Peter Wikoff, and upon his solemn oath on the Holy Evangelists of Almighty God, did depose and say, That the above is the purport of what passed between General Lee and this deponent, to the best of this deponent's knowledge. And further said not.

PETER WIKOFF.

Sworn before me the first day of }
August, at Philadelphia, }

JOHN ORD.

Major-General Lee proceeds to make his defence, which is as follows :

Before I enter into a narration of what was performed or was not performed on the 28th of June, by the body of troops under my command, it is necessary to make as clear as possible to the Court, the nature and spirit of the orders I received from his Excellency, at least to explain my idea of them ; for it must appear, from the evidence of the different commentators on these orders, that they were by no means precise and positive, but in a great measure discretionary, at least I conceived them as such, and am inclined to think that the Court will consider them in the same light. The several councils of war, held both in Pennsylvania and on this side of the Delaware, on the subject of the operations to be pursued in the Jerseys, reprobated the idea of risking a general engagement, as a measure highly absurd in the present, or rather then, circumstances of America, (for since

the time these councils were held, circumstances are much altered,) as the advantages to be gained by victory were not to be put in competition with the evils which might result from defeat; and, if I recollect right, the most sanguine of these councils only recommended to seek and seize some favorable opportunity of striking some important but partial blow. For instance, the cutting off their rear or covering party, or perhaps the demolition or surprise of their baggage; in short, some blow which might reflect an additional lustre to the arms of America without endangering her safety; for it is difficult to affix a precise idea to a partial but important blow, it is more easy to conceive than express the meaning; but be this as it will, it certainly implies a very great degree of discretionary power to the executive officer.

But, whatever may have been the good sense of these Councils, I shall readily allow that they ought to have little or no weight with an officer, if subsequent orders from the Commander-in-Chief, or even a hint communicated, had been of such a nature, as to give reason to think that the idea had been discarded, and that the General had adopted a plan repugnant to these Councils; but I had not the least reason to think that he had discarded this idea. No letter I received, no conversation I ever held with him, indicated an intention or wish to court a general engagement; if he had, I protest solemnly, that, whatever I might have thought of the wisdom of the plan, I should have turned my thoughts solely to the execution. It has been thrown out, and almost positively asserted, God knows for what purposes, by two gentlemen, that I had received the General's orders positively to attack the enemy at all events, in whatever situation and in whatever force I found them; of course, the

first halt I made, in consequence of the advice I received from General Dickinson of the whole force of the enemy being ranged in battalia, was censurable. I must do his Excellency the justice to declare, that he never gave me, directly or indirectly, such orders—they would have been unworthy of a man many thousand degrees his inferior in understanding.

Upon the whole, I am warranted to insist, that no letter, no conversation, gave me reason to think, that his Excellency had taken up a plan repugnant to the spirit of the Councils of War referred to; and, if it was necessary or proper on this occasion, I think I could demonstrate from his Excellency's subsequent measures and conduct, and from the subsequent conversation he held with some very confidential persons, that my idea was a just one. Under the influence of this idea, at least, I was determined to act, and the only posterior order I received in the course of the day of action, that through the channel Colonel Meade, which was verbal, not written, confirmed rather than altered my sentiments on the subject; it was, if I recollect myself right, couched in these precise words: "The General expects you will find means of engaging the enemy, if no powerful consideration prevent you." These terms certainly implied a degree of discretionary power. My answer was that of a willing and submissive officer—viz.: "That I would endeavor to answer his intentions;" and every measure I pursued demonstrates, from the various evidences delivered to the Court, that I absolutely and literally did obey his order, and to the utmost of my power endeavored to fulfil his expectations.

It is unnecessary to trouble the Court with a repetition of the detail of what happened previous to the moment I

sat out; of Colonel Hamilton's letter, and of those I wrote to Colonels Grayson, Morgan, and General Dickinson, with their contents; of Grayson's halt, and the reason of it. These circumstances have been sufficiently and clearly explained already; but there is one of those previous points I beg leave for a moment to dwell upon; I mean the conversation I held with the Major-General and Brigadiers (who were to act under my command) on the evening of the 27th. An explanation on this head will save much trouble to the Court and myself, and prevent my breaking in on the thread of my narrative, which I wish to render as simple, concise and intelligible as possible.

General Washington recommended to me a conference with those gentlemen, relative to any plan of operations I might choose to adopt, but as he only recommended the conference, I of course thought myself at full liberty on this head. I told the gentlemen, if I recollect right, that as the number and situation of the enemy were mere conjecture, and the country was far from being reconnoitered, if a precise plan was formed, the least trifling, unexpected circumstance, must embarrass, distract, and lead us astray. I do not pretend to vouch that such was my explicit language, but I am sure they were and are my sentiments, and in consequence I confined myself to entreating them to be alert and avoid all disputes with respect to rank, as it possibly might happen in the occurrences of the day, that the eldest officer might be ordered to the left and the youngest to the right. And from the little practice I have had in war, and all the reading I am possessed of on the subject of war, I think myself justifiable in this opinion. Perhaps I am wrong, but as it is merely matter of opinion, I hope the common allowances will be made for error. To com-

pare things on a small scale with those on a great—that a general who commands a covering army, as Marshal Saxe did at Fontenoy, to receive an enemy who must attack him inevitably, or lose a most important place, should form a precise plan, is, I think, not only possible but appears easy. That to form a precise and certain plan for attacking the quarters of a besieging army, as was done at Turin, is proper and possible, no man will dispute, and even to arrange a system for attacking an enemy on their march, as General Laudon did near Olmutz, if the country is perfectly reconnoitered, and the force, disposition, and situation of the adverse army accurately and determinately known, is likewise proved possible and wise; but if the country is un-reconnoitered, and the force, disposition, and situation of the enemy doubtful, I must profess that I cannot persuade myself that a precise plan can be attended with any good consequences, but that it must distract, lead astray, and in effect be ruinous. All that an officer can do in these circumstances, (but what I offer is only a matter of opinion,) is to recommend it to those who serve under him, to be alert, vigilant and attentive: that if they march in many columns the sections of those columns, or even of one column (if the country will not admit of any more) be kept distinct, so as to throw themselves with the greatest facility into whatever form the circumstances of affairs may require. These were and are my sentiments on this subject, and I think it will not appear that I had any reason to give them up on this particular occasion. That the country was un-reconnoitered, and the force of the enemy unascertained, I think must sufficiently appear to the Court, from every evidence produced; with respect to the ignorance of the former, we need only instance the

utter silence of those who offered themselves as guides on the subject of the great ravine, which traversed the plain quite from the Court-house to the wood on our left, an ignorance of which might have proved fatal to an army in similar circumstances.

I sincerely beg pardon of the Court for this essay, which, on the first aspect, may appear somewhat prolix and impertinent; but, when they consider how frequently it has been asked, (and how great stress seems to be laid upon it,) whether I had planned any mode or arranged any system for attack, I flatter myself they will be rather pleased than displeased, that I have taken this general method of answering the question.

On the 28th of June I marched with the body of men under my command, amounting, as I then imagined, to 4,100, although I have since discovered, that they were considerably less. I should not, perhaps, mention this circumstance, if so much industrious pains had not been taken to prove them five thousand complete. The various delays, halts and embarrassments, occasioned by false alarms and contradictory intelligence in our march from English-Town to the eminence where we found General Dickinson with a small part of militia posted, have been already so minutely related to the Court, that I shall pass them over in silence; let it suffice that I was teased, mortified and chagrined, particularly as it occasioned distress to Colonel Durgee's corps, by little marches and counter-marches from one hill to another over the ravine, in front of which I found General Dickinson, and, as it gave an awkward appearance to our first manœuvres; this gentleman, to whom I had been referred for the most substantial intelligence, I accosted with some warmth, how, wherefore, and by what means, could

arise such distracted information. He replied with equal, if not greater warmth, that his advices were constant, consistent and simple, and that he was assured and would adhere to his assertion, that the enemy, not a man of them, had stirred from their post at or near the Court-house, and that I should find it to be a fact if I moved from the spot we then stood on. On my seeming to doubt, and demanding from what authority he drew his information, he replied, as I think, with some heat, among others, from Baron Steuben's—Baron Steuben himself told me so—and, to the best of my remembrance, he added these words: “General Lee, you may believe or not, but if you march your party beyond the ravine now in your rear, which had only one passage over it, you are in a perilous situation.” Although I had great and just confidence in General Dickinson, the number of those who asserted the contrary—viz.: That the main body of the enemy had certainly marched, and that those who remained at or near the Court-house, were only a common covering party, had so much weight with me, that I determined to march on and ascertain with my own eyes, the number, order and disposition of the enemy, and conduct myself accordingly. The Marquis of Fayette, being therefore come up, and having reconnoitered the wood, into which it had been reported a battalion or two of the enemy had thrown themselves, and satisfied myself of this report's being groundless, we proceeded on in the manner already related, to the Court-house. Through this intermediate space, nothing worthy of notice happened, unless I may observe, that what Colonel Butler supposes, in an article of his evidence, is a mistake. He attributes my reducing the troops into a column from the centre, to my disapproving their marching in front, but my real and only reason was,

that I was apprized of a defile in our front, which rendered this alteration necessary.

On our arrival at the point of woods opposite to the Court-house, I thought it expedient, from the appearance of the wood, and the circumstance of a cross road, to form in what is called a potence, for the security of the front and flank of our column, and then, with General Wayne and a few others, rode out of the wood to reconnoitre, enjoining the officers who remained, to keep themselves, their soldiers, and particularly the field pieces, as much concealed as possible. The corps that presented themselves to our view, might have consisted of five or six hundred cavalry and light infantry, mixed in that sort of order in which these species of troops on similar occasions are generally disposed, that is, in open and sparse files; but no satisfactory conclusions could be drawn from the appearance of this corps with respect to the forces that might or might not be in their rear; however, I had little doubt but their principle was a retreat, and soon afterwards, from the intelligence that Captain Mercer obtained, I was induced to think, that 1500 or 2000 constituted the force of this covering party, and I entertained hopes that there might probably be an interval between them and their main body, sufficient to afford me an opportunity of cutting them off; and even that, should it happen, we were deceived in their numbers and supposed interval, I flattered myself, that the nature of the country, (as far as I had a right to judge from its aspect,) would secure us from any material disgrace. In these hopes, and on this principle, I immediately planned and ordered the following attacks: General Wayne, with 700 men and two pieces of artillery, to attack in rear; Colonel Durgee, with Varnum's brigade, to make the left flank attack, and Colonel

Morgan would, I concluded, conformable to the orders he had received, attack their right flank.

The orders I sent to General Wayne were these: that he should, in his attack, rather affect shyness than confidence, lest the appearance of vigor should give the enemy reason to think we were in force, and consequently, occasion them either to retreat with so much celerity to the main body, or to draw back from that main body so powerful a reinforcement as to defeat our purposes—in short, all I expected from him for the present was, that he should occasion them to halt. I then put myself at the head of the remaining column and marched through the wood by that road, which, in the course of the evidence, is mentioned to have been discovered by Colonel Rhea or General Foreman, and to have been reconnoitered by Captain Edwards. It has been asked whether I gave any particular instructions to General Scott how to conduct himself on this occasion. I could not, I did not see him, nor did I conceive there was a necessity for it, for as his detachment was part of the corps I proposed to command in person, and as it was an affair, the success of which, perhaps, depended on a moment, I contented myself with the general instructions conveyed by Colonel Brooks, the Adjutant-General, to the principal officers and commanders of corps, with respect to the order they were to march in columns, and with the particular orders given by Captain Edwards to Colonel Durgee.

As to forming a precise plan in an un-reconnoitered country, I have already (whether substantial or futile) given my objections; and as I had great confidence in the attention and coolness of the officers and men, I persuaded myself that they would with facility throw themselves into any form that contingencies might require.

We marched with great rapidity till we emerged from the wood into the plain ; the wood extended itself close on our left to a point three hundred yards distant ; about this time a party of our light-horse were driven in by those of the enemy towards the spot where Colonel Butler was with his detachment ; the Colonel repulsed them by his fire ; a crowd of visitants and spectators, acting in no capacity, on this occasion galloped in so furiously upon our troops, that had they not been firm and cool, might have occasioned great trepidation, alarm and confusion. These visitants are a species of gentry that I hope every general for the future, who has any regard for his own interest or that of the public, will devise some means to keep the field clear of. Arriving in the plain, in view of the enemy, the following was the disposition of our troops : The whole column (Maxwell's brigade excepted) had crossed the great ravine, where I halted General Wayne's original detachment in order to form a right, and then myself filed off Scott's detachment to the point of wood I have mentioned, to form a left. I then advanced into the plain in hopes of having a full view of the ground. The plain was extensive, and to me appeared unembarrassed ; their force considerable larger than I had been taught to expect ; a column of artillery, with a strong covering party, both horse and foot, presented themselves in the centre of the plain, another much larger appeared directing their course towards the Court-house on our right. As this column, if it had turned our right, must have put us into the most dangerous situation, I immediately ordered three regiments, under the Marquis of Fayette, to incline to the right and meet them ; and detached Captain Mercer to General Scott, then in the wood on the left, with orders to remain where he was, as a security to our left flank ; this

could not possibly have been five minutes from the time I left his detachment. I then myself inclined farther to the right, in order to take my measures accordingly. A few minutes afterwards, I was surprised upon observing that Colonel Oswald, with the pieces under his command, were retiring towards the ravine; I rode up to him, and in some heat demanded the reason why he retreated without my orders; his answer was, as has been related to the Court, that he had expended all his round shot, and that his ammunition wagon was on the other side of the ravine: the reason was, without doubt, fully satisfactory, and I may venture to pronounce, from what I observed, and from what every other person who had an opportunity of observing his conduct through the whole process of that day, that it must be some very substantial reason indeed that will ever induce that officer to retreat.

As so much depended on the security of the left flank, and the keeping possession of the wood where I left the main body, and apprehensive that some mistake might possibly arise, I dispatched Captain Edwards, my other Aide-de-Camp, to General Scott, with a repetition of the orders I had before sent by Captain Mercer.

Having, as I thought, conceived a proper idea of the intentions of the enemy, I was preparing to return to the left, in order to take the command myself, when my two Aide-de-Camps arrived and informed me that General Scott had abandoned the wood on the left, but that the whole of the troops were retiring from that quarter, and at the same time Captain Mercer observed that the enemy were directing their main body on that flank. This intelligence astonished as well as disconcerted me, and I could not refrain from expressing much indignation upon the occasion. In this

state of suspense, I observed the Marquis had fallen back, and I confess, circumstanced as we were, I was not sorry for it, although to this day I am ignorant by what means it was brought about.

I now had thought of taking a position on the hither western margin of the ravine, in the idea that the village of Freehold would cover our right flank; from its aspect, I had conceived the houses to be built of stone, and that the trees, in which it was embosomed, were a thick, strong wood. I desired the Marquis to examine if it answered its appearance, and a little after rode up myself to be ascertained of the fact; I found it to be the reverse of what I had imagined; the houses were of wood, the village open, and the supposed wood a mere common orchard of sparse apple trees. This disappointment—a reflection that the western side of the ravine was greatly commanded by the eastern side—my uncertainty to what point General Scott and the troops on the left had retired—so that, for aught I knew, our left flank might be quite in air. The certain intelligence which by this time I received of a new column of the enemy advancing towards us on the Middletown road (which I, in my own mind, had no doubt was their main body); these concurrent considerations, I say, determined me to abandon all thought of this position. In every view, on every principle, the measure would not only have been censurable, but criminal. I must observe, that about this time there was a cry on all sides, from a variety of people, that what we could see of the enemy pressing down upon us, was not the whole, but that another column had actually gained our flank or rather our rear on our right. To this I cannot say I paid much attention, although it was pretty confidently asserted, particularly by some French gentlemen.

I addressed myself to Monsieur de Portial, of whose abilities I had an high opinion, and as I did not choose to quit the troops myself, entreated him to ride on an eminence in our rear, it struck me to be a good position; he complied, and on his return made a favorable report of it. To this point I was determined to direct our course, where, I flattered myself, I should be joined by the troops on the left, it would at least be gaining ground for that purpose. I ordered the battalions and guns to file off in the only manner in which, in my opinion, such manœuvres are practicable. The guns and battalions supported, and were supported mutually; had we attempted it in a display of line, great confusion, impediment and loss, must, I think, have ensued; and I can venture to assert, that no man in this whole army, whatever services he may have seen, and in whatever parts of the world he may have served, can instance a retrograde manœuvre in the face and under the fire of an enemy, performed with more order and precision.

When we reached the point Monsieur Portial had reconnoitered and approved of, if I recollect right, he himself observed the main position would not be tenable, unless a knoll in our front and on our left was occupied by some pieces of artillery, as it would eminently command our main position. This knoll was separated from us by a ravine or ugly hollow way; I believe, but am far from being positive, that Monsieur Portial made several objections to this position, which at first sight appeared to him favorable; perhaps I might not well have comprehended him, for I do not harbor the least suspicion of his want of candor; on the contrary, I have a great opinion of his integrity as well as of his abilities; and, as I have always declared publicly my sentiments with regard to this gentle-

man, I may, without suspicion of compliment on this occasion, say that I think him a real acquisition to the continent. This is the ground, or near it, I think, which seems to have struck Colonel Grayson as an excellent position, but as Colonel Grayson was only an officer of the line, he probably had not opportunity of considering all its vices. It was, according to my conception (at least from the *prima facie*, and a General in an un-reconnoitered country, can alone form his judgment from the *prima facie*) I say, it was, according to my conception, an execrable position. In the first place, it is, I believe, in war as well as in all other things, a general maxim, that the whole should not depend on a part, or the major on the minor. Now, this knoll in our front, and consequently nearest the enemy, separated by a ravine or ugly hollow way from the ground where our principal corps was to be formed, its crown or occupiable part so contracted, as to have admitted a very trifling number of troops to support the battery placed upon it, so eminently commanded the main position, that it is manifest the instant this single point had been carried, the whole would have been under the disgraceful necessity of retiring with precipitation and confusion. The wood upon the right (if I may so express myself) was no wood at all, but rather a bushery. There was, indeed, a real wood, but at so great a distance as not to be attainable by infantry in the fatigued state our troops were then in. In fact, this flank was by no means secure against the attempts of the British cavalry, had they acted in squadron, which I had every moment reason to expect.

But to waive these considerations, there remains a capital objection to this position, which is alone sufficient to ex-
 ercate it in the eye of every judicious soldier, I mean the

ravine or morass in our rear, over which there was alone one passage, and that a very narrow one. General Dickinson (who seems to have informed himself of everything; it was his business to have informed himself of more fully than any other person to whom I was referred) had impressed this important point on my mind in too emphatic terms to be easily forgotten. Upon the whole, I think, I may safely refer it to the conscience and judgment of every member of this Court whether, from these conspiring circumstances, I should have acted wisely or not in keeping this position.

At this junction, Mr. Wikoff fell in with me, who said he was perfectly acquainted with the country, and offered any services in his power. I thought myself extremely fortunate in the rencontre, and begged that he would inform me where a position was to be found that would render our flanks secure from the British cavalry, and at the same time shelter our men from the intolerable heat of the weather; his answer was, that he knew of no wood that would shelter our men from the heat of the weather, and at the same time could be esteemed a tolerable position, but that there was an eminence in our rear, which, in his judgment, would answer the latter purpose excellently well; he pointed to it, and it proved to be the very same on which General Washington and the army afterwards took post.

As the regiments have no uniforms or distinguishing colors, and as I was unhappily almost an utter stranger to the names and faces of the commanding officers of the respective corps, I did the only thing I possibly could do in these circumstances; I entreated him to ride to the rear, make use of my name, and take the first regiment he should find opportunely situated, and arrange them on the hill proposed

as a point of halt for the whole ; I would willingly have sent one of my Aid-de-Camps with him, but both their horses were so worn down that they could scarcely move, and the other two gentlemen, who had personally attended through the whole course of the day, Colonel Malmédy and Colonel Brooks, were absolutely dismounted, and themselves, from the loss of their horses, almost dead with fatigue. Captain Mercer, however, was soon after detached on this errand, but was prevented from putting into execution by the arrival of General Washington.

I cannot pretend to say, whether the authority I gave to Mr. Wikoff had all the weight I wished with the officer to whom he addressed himself ; but ill attended as I was, it was the only method I could adopt in my circumstances ; and I had little reason to doubt, from the good disposition I observed in the men and officers to comply with every order, which had the appearance of proceeding from any authority, that it would have the desired effect, and if it had not, I cannot think myself responsible for it, but that it must be attributed to the defective constitution of our army, the most defective part of which is, in my opinion, the want of proper colors to the battalions, and a proper application of these colors, which are the grand pivot and soul of all manœuvres, the want of proper military instruments to sound the signals of retreat, halt, march or charge ; for I am myself persuaded, that had not our system been so defective in these points, and the number of my Aid-de-Camps been competent, I could (such was the excellent temper of the troops) have conducted the whole manœuvres of this day with as much ease as ever they were performed in a common field of exercise.

But be this as it may, I confess I had not the least appre-

hension that Mr. Wikoff would not have influence sufficient to lead a battalion to the point proposed for a general halt, and as little that the officer of this battalion, whichever it might be, would not take the necessary care to prevent any troops from filing off into the rear without further orders. Quite at ease, therefore, on this subject, I applied my whole thoughts and attention to the conducting the troops from this position, which I considered as an execrable one to the other in the rear, that I was taught to think a very good one; I had previously ordered General Maxwell into the wood on our left and in our rear, which would secure our retreat over the morass in our rear, which has been so often mentioned to have had only one passage over it, and I took measures to supply his place.

From this point of action to the eminence where we found General Washington, I can safely appeal to all those who were near enough to observe me, whether I did not show all the attention possible to the filing off the troops, the posting and properly supporting of the guns? Whether I was not in front, in flank, and wherever my presence could possibly be necessary? And whether I did not seem more solicitous for the safety and honor of the troops than for my own person?

The instant General Washington came up and had issued a single order, I considered myself in fact reduced to a private capacity, and if any disorder arose from this moment, it may, I think, be attributed rather to a clashing of orders, and the not perfectly understanding each other, than to any want of judgment in me. When he permitted me to reassume the command on the hill we were then on, he gave me directions to defend it, in order to give him time to make a disposition of his army. The measures I then

took were such as the exigencies of affairs required. The troops that remained on this hill were those that I intended should supply the place of General Maxwell's brigade, ordered before to cover the passage of our troops over this bridge. They were Stewart's and Livingston's battalions, and Varnum's brigade. I understood General Wayne took the command in the point of wood on our left, where Colonel Stewart had been halted. I accordingly addressed my orders by Captain Mercer to him; they were, that he should defend that post to the last. On their right, on the opposite side of the plain, I had ordered Colonel Oswald, with four pieces of artillery; he might have been in some measure exposed had he continued long in that situation, as Colonel Livingston, who had long before been attached to the artillery, had drawn up, by the mistake explained in Colonel Oswald's evidence some distance in the rear. But the moment I found his situation dangerous, I ordered him into the rear of Livingston's again; which regiment, together with Varnum's brigade, some time before drawn up by Colonel Brooks, my Adjutant-General, lined the fence that stretched across the open field. I here established a battery and took post myself. I sent Captain Mercer, my Aide-de-Camp, to Colonel Ogden, who (as I was informed by Major Ogden) had drawn up in the wood nearest the bridge in our rear, and ordered him to defend that post, to cover the retreat of the whole over the bridge.

I have mentioned the disposition of these troops particularly, as it has been attempted to be proved by some negative evidences, that the troops on this hill had not my orders. There was not a man of them but what had my particular orders, and the greater part of them before I had the honor of seeing those gentlemen, as has been fully

proved by the gentlemen on the affirmative side, who have given in their testimony relative to that particular transaction. The whole squadron of these negative gentlemen, who have pranced it about over reams of paper, for purposes too obvious, and who have taken such wonderful pains to prove that these battalions who sustained the charge of the enemy, at this particular point of action, were posted independent of my order, and that the guns were unsupported and uncovered. This whole squadron of negatives, I say, would have been so completely overturned by even a single individual out of the respectable list of affirmants who have appeared in Court to prove the contrary, that I need not add a word on the subject.

These battalions having sustained with gallantry, and returned with vigor, a very considerable fire, were at length successively forced over the bridge; the rear I brought up myself. I then addressed his Excellency in these words: "Sir, here are my troops; how is it your pleasure that I should dispose of them? Shall I form them in your front, align them with your main body, or draw them up in the rear?" He answered that I should arrange them in the rear of English-Town.

So far at this time from conceiving ourselves as beaten or disgraced, that I really thought, taking into consideration all circumstances, the various contradictory and false intelligence, disobedience or mistakes in some officers, precipitancy in others, ignorance of the ground, want of cavalry, that it was the flower of the British army we had to deal with; considering all these circumstances, I repeat, so far was I from conceiving ourselves as beaten or disgraced, that I really thought the troops entitled to the highest honor; and that I myself, instead of the thundering charges

brought against me, had merited some degree of applause from the General and from the public. And I solemnly protest, that at this instant when I addressed the General, I was totally ignorant that a man of my corps had filed off to his rear, without his particular orders ; I was ignorant of it that night, I was ignorant of it next day ; nay, I protest to God I remained in this ignorance till long after this present court-martial was assembled. And I beg leave once more to observe, that I cannot think myself responsible for it, as I had taken every means in my power to prevent it ; but that it must be attributed to the defects in the constitution of the army, which only perhaps wants a more perfect system and economy to render it the best in the world. When I arrived at English-Town Creek, I found the Baron Steuben employed in the business which had been enjoined me. I was extremely glad of it, as I thought myself now at liberty to return to the field of action, which (as soon as my Aid-de-Camps had changed their horses, both of which had been wounded), I did, and offered to his Excellency my services in any duties where they could be required.

The conversation I held with his Excellency has been introduced into Court by such a variety of evidences, and seems to have been dwelt upon with so much stress (although from my soul I cannot see for what purposes), that I should endeavor to recollect the terms literally ; but to give precisely the idea I at that time conceived, or even at this instant conceive, of the greater part of the import of it, is really out of my power ; I trespass on the time and patience of the Court in attempting it. When I arrived first in his presence, conscious of having done nothing that could draw on the least censure, but rather flattering myself with his congratulation and applause, I confess I was dis-

concerted, astonished and confounded by the words and manner in which his Excellency accosted me; it was so novel and unexpected from a man, whose discretion, humanity and decorum I had from the first of our acquaintance stood in admiration of, that I was for some time incapable of making any coherent answer to questions so abrupt and in a great measure to me unintelligible. The terms, I think, were these—"I desire to know, sir, what is the reason—whence arises this disorder and confusion?" The manner in which he expressed them was much stronger and more severe than the expressions themselves. When I recovered myself sufficiently, I answered, that I saw or knew of no confusion but what naturally arose from disobedience of orders, contradictory intelligence, and the impertinence and presumption of individuals, who were vested with no authority, intruding themselves in matters above them and out of their sphere. That the retreat, in the first instance, was contrary to my intentions, contrary to my orders, and contrary to my wishes. I even particularized; I said General Scott, at the head of the troops on the left, had gone off without authority, and that the falling back of the troops on the right could be ascribed to no reason that I could divine, unless the retiring of some guns over the ravine involuntarily but necessarily, from the want of ammunition, had been considered as a signal for a general retreat. I added, I think, that had I remained longer in the situation I had been in, the risk so greatly overbalanced any advantages that could possibly have been gained, that I thought it my duty to act as I had done.

To which he replied, "All this may be very true, sir, but you ought not to have undertaken it unless you intended to go through with it." Now, what his Excellency meant by

saying that I should not have undertaken what I had no intention of going through with, I confess I did not then, nor do I at this day, understand. I had set out in the morning, as has been already observed, with the idea that it was his Excellency's intention that I should strike some important but partial blow, and I had endeavored, in the manner related, to execute these intentions. This is what I conceived I had undertaken, and what I endeavored to go through with. As to my own meaning in saying the risk overbalanced the advantages to be gained, &c., I know what it was, and think I can explain it. It was, that after I had been disappointed in my first plan, and after the retreat in the first instance had taken place, by the means which the Court is already acquainted with, there was no one position in the whole theatre which, to me, appeared good enough to promise us any advantages to counterbalance the serious loss we should evidently have hazarded by remaining in it. There were some expressions (I cannot precisely recollect them) let fall by the General, which, at the instant, conveyed to me an idea that he had adopted new sentiments, and that it was his wish to bring on a general engagement. This idea drew from me some sentences, such as related in Colonel Tilgham's evidence. It remained with me for some moments, but was entirely banished by what subsequently passed; for when, (on the supposition that not a man had filed off in his rear without his immediate orders,) I requested to know his Excellency's pleasure, how I should dispose of the troops; whether I should form them in front, align with the main body, or draw them up in his rear; and instead of approving any of these propositions, he ordered me to arrange them in the rear of English-Town Creek, at three miles distance, I was more confirmed than ever in the original

idea I set out with, viz.: that it never was his intention to court or hazard a general engagement. I must beg leave to observe once more, that, in my opinion, every circumstance relative to this conversation is rather a trespass on the time and patience of the Court, as posterior conversation can never overturn facts established by strong and numerous evidences; but as it has been introduced, and so much stress has been apparently laid upon it, I could not be silent on the subject.

I shall now beg leave to make a few observations on part of some of the different evidences that have been produced in Court.

The only comment I shall make on the evidence of the Marquis of Fayette will be on that part where he mentions, that having received orders to attack the enemy's left, counter orders were given before he had proceeded one-quarter of the way necessary. The fact is, the only order I sent the Marquis from the time I gave him orders for attack to the time I saw him myself in rear of the ravine, was that by Mr. Steth, the light-horse officer, mentioned in that gentleman's evidence as the first sent by him, which was after I had received the account of General Scott's retreat.

The Marquis does not, throughout his whole evidence, hint that he himself received my orders to retreat; what he says positively contradicts such a surmise. His words are to this effect: That he understood such orders had come officially from General Lee, and he thought such orders would come of course, for looking behind him he found himself at the head of Colonel Livingston's regiment alone. Upon the whole, I cannot but conjecture that these orders were delivered to the wrong person, which will appear very probable in the manner this body of troops marched (the regi-

ments at some distance from each other), which must indeed be one of the principal reasons for my sending that order by Mr. Steth, as they were then so near the enemy as to render extremely dangerous their marching in so broken a line.

It was a step that the Marquis would naturally take when he found himself in this situation, to order that battalion back; and the retreat being thus commenced, I am not surprised at its being continued, as the commanding officer was ignorant of my intentions.

But that a retreat was in direct opposition to my then wish, I think is evidently evinced by my ordering back some retiring artillery long after my sending this order, as Colonel Oswald and Captain Steth have both proved.

The reason why I did not appear dissatisfied with the Marquis, I have taken occasion to explain in my narrative, and need only here add, that it was a fortunate mistake. In truth, when I called to mind the several circumstances of this day, the only omission with which I can justly upbraid myself is, that I did not, on first receiving intelligence of General Scott's having abandoned the wood on our left, immediately order a retreat on the right.

Here I beg leave to observe, that what comments I shall make on the evidence produced in prosecution, will be done with the utmost candor and dispassion, and in such a manner, I hope, as can only appear an appeal to the good sense and reason of the Court. General Wayne says that he made frequent requests to me by his Aid-de-Camps in the course of the day, and that he made them in vain; one while to reinforce him, for that the enemy were precipitately retiring, and that then was the time to press them; another instant, when they made an halt, he was as fully convinced

that it was their intention to attack, and of course a reinforcement was equally necessary: or rather in his language he requested that I should push up the whole troops. I could not help being surprised, and expressing my surprise, that every appearance of retreat in the enemy, and every halt they made, should pass upon him, the one as the effect of fright and necessity, and the other as a serious design. I laughed at his notions, and said that he must expect twenty such feints in the course of the day, for that it was the common practice on similar occasions. But, in the name of God, had I been weak enough to humor the General, what could we possibly have effected? The utmost we could have done would have been just what was contrary to our interest. We would have drove the covering party back towards the main body, or we would have drawn back the main body to the support of the covering party; the two very things we ought most to deprecate. In every point of view, on every principle, the attack committed to his conduct ought to have worn rather the appearance of diffidence than confidence. He was sufficiently strong to answer every end purposed, and I endeavored, by my Aid-de-Camp, to make him sensible of it. To spend the principal part of your force by an immediate attack on the rear of an army in retreats, when a fair prospect is open of making an impression on both flanks, is so absurd a scheme, that it would be an affront to the Court to attempt demonstrating it. Colonel Durgée had been detached; I was immediately to fall on their left flank; Colonel Morgan had received his previous orders to fall on their right flank as his discretion should direct; for to this gentleman, when the general principle had been explained, an almost absolute discretionary power was necessary. It was uncertain, and must be uncer-

tain, on what particular point of the enemy's flank he could be at any moment of the day; to have sent any particular orders, therefore, to him how precisely to conduct himself, would have been idle, impertinent, and vain. In short, from the circumstances of our situation, Colonel Morgan must be left to his own discretion.

But to return from this digression. I do not mean to depreciate the value of General Wayne, I believe him to be a most thoroughly brave man, but I cannot help observing, that from the moment he took command of the advanced corps he seemed to think the whole executive duties of the day transferred to him, and that he had nothing to do but to make demands for any number of troops he thought proper to dispose of, just as his notions for the moment should dictate. In another part of his evidence he says he sent Major Fishbourne to request that I would at least send back part of the troops to protect General Scott from the imminent danger he was in. I remember very well receiving a message by Major Lenox, who was distinct and clear, (though he unfortunately did not remain long enough to give me an opportunity of explaining my intentions,) but I am almost positive that I never saw Major Fishbourne from the beginning of the affair to the ending, (once in the wood excepted,) who was at that time so very far from being distinct and clear, that I paid very little attention to what he said. I may possibly be mistaken, but I am sure if he had delivered me such a message, I should have been quite at my ease about General Scott, who had with him by far the greatest part of the detachment under my command, and whom I had left in the least dangerous point of the whole field of action. In fact, the right had more occasion for

support from the left by far than the left from the few troops on the right.

General Wayne, in another place, is pleased to give his opinion to the Court that the western margin of the ravine would have been an excellent position; but as this is merely a matter of opinion, and I have already given my reasons for thinking it an execrable one, I shall not trouble the Court with a word on the subject.

He expresses, it seems, a sovereign contempt for cavalry, and says, that if they had attempted to have turned our flanks, he would have marched out and have drove them. The idea is magnanimous, but I much doubt whether he would have found it so easy in practice as in assertion. Whether a corps of infantry of equal number with a corps of cavalry, front to front, is superior or inferior, has been often a matter of dispute. But that a corps of cavalry turning the flank of a corps of infantry, consisting of a single line only, without even a body of reserve, and of course without support, is a circumstance to be despised, is a discovery now for the first time made.

The free comments I have taken the liberty of making on General Wayne's evidence, may possibly be attributed to resentment, as it is publicly said that he has been one of the principal actors in my prosecution; I beg leave to set the Court right; I do not harbor the least resentment against him. On the contrary, from all I have been able to collect of his character, I am persuaded he acted from an honest principle and a conviction that I had not done my duty; and I have no doubt that had he been well informed of the whole circumstances of the day, I should, instead of a prosecutor, have found in him a friend and advocate.

It has been asked, when I had been informed that Gene-

ral Scott had quitted the post I imagined he was in, wherefore I did not send to inquire where he was? My real reason was, that as I was uncertain to what point he was retired, I did not choose to dispatch one of my Aid-de-Camps on an errand which might prove as fruitless as the former. When both of them had been sent with orders to him (on that occasion I felt the inconvenience of being unattended), I had immediate occasion for them in a variety of important business. Indeed, had I been furnished with half a dozen more I should have had full employment for them all. It certainly was his duty, when he quitted the ground he had been marched up to, from his own authority, necessarily or unnecessarily, to inform me of it—assign the reasons, and request to know what was to be done. He probably might have had reasons, or what to him might appear reasons, for his conduct; but undoubtedly I should have been acquainted with it. I here must observe, that if I had been guilty of an inadvertency in this article (which I am persuaded in my own mind I was not), it would be the first instance of a General's being called to account for a single omission; twenty are committed by every General in the hurry of action, which, if the general tenor of his conduct is that of a calm, attentive and active officer, pass uncensured and unobserved. I appeal for the truth of this to all those who have been in actions and near the persons of Generals, even of the best; and to speak with becoming confidence, the tenor of my conduct, was that at least of a calm, attentive, and active officer, and I may, without presumption, insist, that in this article the omission was General Scott's, not mine.

Now I am upon the subject of the several inadvertencies and omissions imputed to me, I must advert to one that

seems to have been considered not as the least, viz., my having neglected to send intelligence to his Excellency of my situation; but no point, I think, can be more easily cleared up than this. At the time I had formed a plan and entertained hopes of executing it, the means were fortunately found of communicating my design and hopes of success, as it proved by the evidence of Mr. M'Henry and Major Gilman. But when, from the circumstances already related, this plan was defeated, and I had no longer hopes of success, my situation took a new face. My business was then, of course, to look out for a position where the troops could receive the enemy and baffle their attack, for at this time it was manifest they intended to attack us. The country was un-reconnoitered, but I from moment to moment flattered myself that I should find out a suitable position for this purpose. My intention was certainly never to make a general retreat. One while, from its first appearance, I thought the western side of the ravine, with the Court-house on our right flank, would have answered, but upon examination and reflection, this appeared, from the reason already explained, an execrable one. The next that occurred was the eminence mentioned to be reconnoitered by Monsieur Portial, and abandoned for reasons full as strong. And here, if my memory does not fail me, I sent his Excellency information of my design by a young gentleman introduced to me for that purpose by Colonel Meade. The third and last was, in my judgment, the only one which I could, without risking the fate of my whole detachment to an evident disadvantage, really occupy; and this I determined to occupy, and should certainly have informed his Excellency of my situation if I had not been prevented by his arrival. But to have sent one of the few attendants I had about me to

the General, merely to inform him that I was looking for a position, before I knew where this position would be, would have been distressing myself without conveying any useful information. In fact, I had no idea that his Excellency meant to move from English-Town, where I was informed he was posted, by a letter from Colonel Fitzgerald to Colonel Laurens, put into my hands; and that situation appeared to me the best calculated to support my corps of any I knew of in that country, with which I was totally unacquainted. And farther than measures that would relate to my support, it would have been presumption in me to give any opinion.

I would here beg leave to make an observation on what seems to have been thought of no small consequence in the course of this trial, I mean the ascertaining the numbers of the enemy; it is a question that has been asked all the officers who have appeared in Court. It must be a very peculiar situation where an officer can or will employ himself in counting heads, for, as every General makes it his business to conceal his force as much as possible, the visible part of the opponent army is often the least. In most situations the estimate must be made by inferences drawn from their interests and their manœuvres. I had myself different ideas of their numbers at different periods of the day; for instance, I was warranted to conclude, that those immediately in our presence were about two thousand men.

When we issued into the plain, I was convinced this corps was larger, and when we were at the Court-house I could have inferred from this single manœuvre, their bearing down on our right, that still a much more important corps was near at hand; I say I should have been convinced from

inference alone, although I had never received the positive intelligence I did of another great column advancing from their right, I should have been convinced from inference, by this manœuvre, if this column bearing down upon our right had been the whole, it would have been in air—a piece of insanity one cannot suppose their Generals capable of. In fine, at this period, I had no doubt within myself of their whole army, at least their whole flying army, being in the field, but their number is now pretty well ascertained; they were, it appears, composed of the guards, the British and Hessian grenadiers, the British light infantry, the yagers and Queen's rangers, all the cavalry, with two covering British brigades, and afterwards I understood two more were added; if the merits or demerits of our manœuvres were to depend on the estimate of heads, we certainly merited no censure, as at the time I ordered a retrograde manœuvre, I had not fifteen hundred men with me.

There is one part of Colonel Hamilton's evidence I cannot help animadverting upon; it has hurt me because it is even an impeachment of my qualifications as an officer, and it has hurt me the more, as it comes from a man of esteemed sense, and whose valor I myself was a witness of, although it is not that sort of valor, unless by practice and philosophy he can correct, will ever be of any great use to the community. The Colonel is pleased to allow me personal intrepidity, but that there appeared in me that hurry of spirits which may proceed from a temper not so calm and steady as is necessary to support a man in such critical circumstances.

Now, in answer to all this fine language, I shall only repeat, as nearly as possible, the conversation that passed between us.

When General Washington asked me whether I would remain in front and retain the command, or he should take it, and I had answered that I undoubtedly would, and that he should see that I myself should be one of the last to leave the field, Colonel Hamilton flourishing his sword, immediately exclaimed: That's right, my dear General, and I will stay, and we will all die here on this spot. I must observe, that this hill was by no means a position to risk anything further than the troops then halted on it, with which I intended to cover my corps in their passage over the bridge, and give the enemy a check, to gain time for General Washington to make a disposition of the army. As this was the principle on which the hill was defended, I could but be surprised at his expression, but observing him much flustered and in a sort of frenzy of valor, I calmly requested him to observe me well and to tell me if I did not appear tranquil and master of my faculties; his answer was, that he must own that I was entirely possessed of myself; well, then (said I), you must allow me to be a proper judge of what I ought to do. Sir (I added) if you will take pains to examine that hill in our front, you will perceive that it so eminently commands this we are on, that it would be unpardonable to risk anything more on it than what necessity will oblige us; as to myself, I am as ready to die as what you possibly can be, but I am responsible for something more than my own person, I am responsible to the General and to the continent for the troops I have been entrusted with. When I have taken proper measures to get the main body of them in a good position, I will die with you on this spot, if you please.

If Colonel Hamilton's sentiments were really opposite to what his precise words were, I cannot help thinking it some-

what extraordinary that he and Colonel Laurens should have seen with so very different optics from those of every other gentleman who had an opportunity of observing me that day.

To Colonel Fitzgerald's, and more particularly to Colonel Harrison's evidence, (as they really appeared to me to mean nothing,) I can say nothing; the whole is one tissue of negatives, opinions and comments upon opinions of those who had seen nothing and knew nothing, collected gradually through all the successive ranks of the army, from fifiers up to colonels; they suppose the guns were not covered because they did not happen to see, during the short time they staid, a regiment exactly aligned with these guns, without taking the pains to inform themselves whether there was not sufficient force whose cross fire effectually did cover them. They suppose I issued no orders, because they did not hear me issue orders, without being informed whether every necessary order had not been previously given through the proper channel and conveyed to the proper persons. They suppose that no arrangement was made because they saw no display of line, without taking time to consider whether, from the nature of the country, and the nature of the manœuvre, a display of line was possible, and whether, if it had been possible, it would not have been pernicious. To such evidences, I repeat, I can reply nothing, because they amount to nothing. A single affirmant out of the respectable list that has appeared in Court (and which, if I had chosen, might have been still more respectable), to prove that the guns were well supported, and the battalions received proper orders, and every arrangement made, which the nature of the country and the nature of the manœuvre would admit. A single affirmant out of this respectable

list, whom circumstances and situations qualified to know minutely what was done and what was not done, is sufficient to overturn a whole squadron of negatives, opinion collectors, and dealers in induction from mistaken and unascertained facts.

Of all the very distant spectators of the manœuvres on this day, and those a very trifling part of them, the Baron Steuben is, I think, the only gentleman who has stepped forth to prove their demerits; he has certainly shown a very laudable zeal for bringing a criminal officer to condign punishment; but the next time he takes the field of prosecution in the cause of an injured community, I hope his prudence will dictate to him the necessity of being furnished with a better apparatus.

As to Monsieur Langfrang's relation of the very curious conversation we had together (a gentleman of whose person at that time, and of what capacity he acted in, I am at this day totally ignorant), all I can say is, that either my memory negatively, or his must actively, wretchedly have failed us, as I do not recollect that I ever uttered a single syllable of it; but I can assure Monsieur Langfrang, that should he ever honor me with his presence on a similar occasion, I shall think myself justifiable in making use of any means to render the honor as short as possible.

To the introduction of Dr. Griffith's evidence into Court I took the liberty of objecting, on more than one principle. In the first place I objected to it, because posterior conversation, as I have already observed, cannot overturn facts established by strong and variety of evidence. In the second place, because when I expressed an apprehension for the fate of the day, I was conscious that I alluded to things which had no reference to my crimination or exculpation

with respect to any one of the charges brought against me ; I alluded to certain measures which I apprehended were then in agitation to be pursued, and which I thought extremely dangerous. I was so very anxious on this head, as I knew his Excellency was unacquainted with the nature of the country before him, that I thought it my duty to represent its vices to him ; and Colonel Meade, by whom I addressed my sentiments on this occasion, could, if necessary, explain my meaning fully. I objected to it for a still more substantial and extensive principle, because I think quoting conversations betwixt man and man, is establishing a precedent subversive of the laws of humanity ; it must infect with jealousy that confidence which constitutes the sweetest blessing of society, must put us under that perpetual guard, restriction, and diffidence, which would render the liberties you have been fighting for of no value. For my own part, I think, that although liberty may formally be established by every law that can be impressed on parchment, if such manners as these are introduced, if we are to live in eternal circumspection, if all we throw out in our ruffled, unguarded moments, we are just as miserable as the wretched French under the tyrannical administration of Richlieu and Mazarine ; and that I was extremely ruffled at the time I happened to fall in with Doctor Griffith, must be naturally supposed ; I confess I was ruffled to an extreme degree ; I was conscious of having done my duty, and more than barely done my duty ; I flattered myself with congratulation and applause, instead of which, I was accosted with the most disgraceful reproach ; but I must do Doctor Griffith the justice to declare, that I am convinced he was not a volunteer on this occasion, but unwarily dragged into it.

The two letters I addressed to the General constitute the third article of the charges brought against me. The merit or demerit of these letters do not depend so much on the literal construction as on the circumstances which gave rise to them. I must entreat every member of the Court to conceive himself in my situation for a moment. I arrived in his Excellency's presence without the least suspicions of having merited the reception I was to meet with. Conscious of having done and more than barely done my duty, conscious that I had, to the utmost of my power, obeyed his instructions, and endeavored to fulfil his expectations, that when my first plan had been defeated, and the first retreat taken place, contrary to my intentions and orders, by the means already explained, I had, as I somewhere and to somebody expressed it, made the best of a bad bargain. The country we had been thrown into was un-reconnoitered by us, and undoubtedly well known to the enemy; the ground in all respects to us unfavorable; one ravine after another presented itself in our rear; the margin on the side of the enemy always commanding that on ours; not a pioneer with proper tools in our whole detachment; the enemy furnished with a strong and excellent corps of cavalry, we unprovided; their numbers, as from every intelligence, have been proved superior to ours, and composed of the flower of their army; from the extreme point from whence the retreat in the first instance took place, to the eminence where the General and the army were afterwards arranged, a space of two miles and a half; the time employed in retrograding from one position manifestly bad to another, which had the appearance of being better, not less than three hours; and notwithstanding all these difficulties, arising from disobedience or mistakes of orders, ignorance

of the country, of the force of the enemy, the unfavorableness of ground, it was performed without the loss of a single piece of artillery, a single battalion, or even a single company. The artillery properly posted, served and supported. The only point in the intermediate space where it was proper and necessary that our battalions should remain until the enemy came within reach of their musketry, was vigorously and effectually availed of. An attempt indeed has been made negatively to prove that this was done independently of my order. But so strong has been the affirmatives to the contrary, that this I must think will share the same fate as, I flatter myself, will be that of the other negatives.

In this perfect conviction of mind, thus thoroughly persuaded that I had done, and more than barely done my duty, that I had obeyed to the utmost of my power the instructions, and endeavored to fulfil the expectations of the General, and that, when my first design had failed, and affairs had, from unforeseen events, assumed a different aspect, that I had not only extricated the detachment entrusted to my command from a most dangerous situation, without loss or disgrace, but under many disadvantages baffled and checked the enemy; I must entreat, I say, every member of the Court to substitute himself for a moment in my place, and then to ask his own breast, if instead of the congratulation and applause he expected, he had been received with slight and reproach, he does not think it possible to write a letter in such or stronger terms than mine, without being actuated by an unruly and contumacious spirit? or whether they are not such as the honest sentiment of a man who conceives himself injured, must natu-

rally inspire? I must beg leave, likewise, to observe to the Court, that from the time this, as to me it appeared, cruel injustice was done me, to the time I wrote the first letter, was an interval of more than forty hours; during which I waited in sanguine hopes that his Excellency would be better informed of facts, and that the instant he was undeceived, he would make me some apology for the mistake I lay under; and I solemnly declare that my disposition of mind was such, as to have been satisfied with the most moderate that could have been devised, as I considered it in some respects for the interest of his Excellency, whom I had ever loved and esteemed, for my own in many respects, and let me add, for the satisfaction, at least, of the continent, that no appearance of animosity or even misunderstanding, betwixt men they had so highly entrusted, should be published to the world; but when, instead of the apology I had flattered myself with, these thundering charges were brought against me, comprehending the blackest military crimes of the whole black catalogue, I was more than confounded, I was thrown into a stupor, my whole faculties were for a time benumbed; I read and read it over a dozen times, and thought it still a delusion, but when I waked and was convinced of the reality, I sat down and wrote the second letter, which it seems constitutes a part of my criminality. Perhaps I am blinded by self-prejudice, but I confess, so far from this letter appearing to me in a criminal light, that I cannot help being persuaded that there is scarcely, or not a single member of this Court, who would in similar circumstances have been more moderate.

But here I must, in justice to his Excellency, observe, that when I imputed his conduct towards me, to misrepres-

sentation and misinformation, I was ignorant of a third circumstance. I was ignorant of it at the time I wrote those letters, and I protest solemnly, I was ignorant of it till long after this Court-Martial sat; I mean the filing off of part of the troops of my detachment beyond the eminence proposed for my position; these the General met in his march from English-Town, and hastily concluded, I must be void of all attention; but that this was contrary to my intention and orders, has been repeatedly observed, and is what I think myself by no means responsible, for the reasons already given. Now, had his Excellency fortunately have called me to him, everything, I make no doubt, would have been settled and explained to his satisfaction, and I am convinced this unhappy business would never have fallen out.

I have now, gentlemen, endeavored to exculpate myself from the two first charges brought against me, I hope effectually. The last must be judged of by your feeling and the depending circumstances; I am so conscious in my own mind, that my conduct through the whole of this affair has been irreproachable, and have so great reliance on the candor, good sense and integrity of the gentlemen who sit in judgment upon me, that as far as my own personal fame and fortunes are concerned, I am perfectly at ease; but, as a public man, my uneasiness is very great, as I cannot help thinking, that the least appearance of dissension, animosity, or even of misunderstanding, betwixt men of so high rank amongst those engaged in the most righteous cause that ever mortals were engaged in, is a misfortune to the community and some sort to humanity; but I console myself with this reflection, that this appearance, which at another period might have been attended with the worst conse-

quences, can now at the utmost only afford poor temporary matter of sneer and exultation to the enemies of America, of Liberty, and in fact the Rights of Mankind.

The Court adjourns till nine o'clock to-morrow morning.

AUGUST 10th.

The Court met according to adjournment, and adjourns till to-morrow at nine o'clock.

AUGUST 11th.

The Court met according to adjournment, and adjourns till to-morrow at ten o'clock.

AUGUST 12th.

The Court met according to adjournment.

The Court having considered the first charge against Major-General Lee, the evidence and his defence, are of opinion, that he is guilty of disobedience of orders, in not attacking the enemy on the 28th of June, agreeable to repeated instructions; being a breach of the latter part of article 5th, section 2d of the Articles of War. The Court having considered the second charge against Major-General Lee, the evidence and his defence, are of opinion, he is guilty of misbehavior before the enemy on the 28th of June, by making an unnecessary, and in some few instances, a disorderly retreat; being a breach of the 13th article of the 13th section of the Articles of War. The Court having considered the third charge against Major-General Lee, are of opinion, that he is guilty of disrespect to the Commander-in-Chief in two letters dated the 1st of July and the 28th

of June; being a breach of the 2d article, section 2d of the Articles of War.

The Court do sentence Major-General Lee to be suspended from any command in the armies of the United States of North America, for the term of twelve months.

The Court adjourn without day.

STIRLING, *M. G. and President.*

