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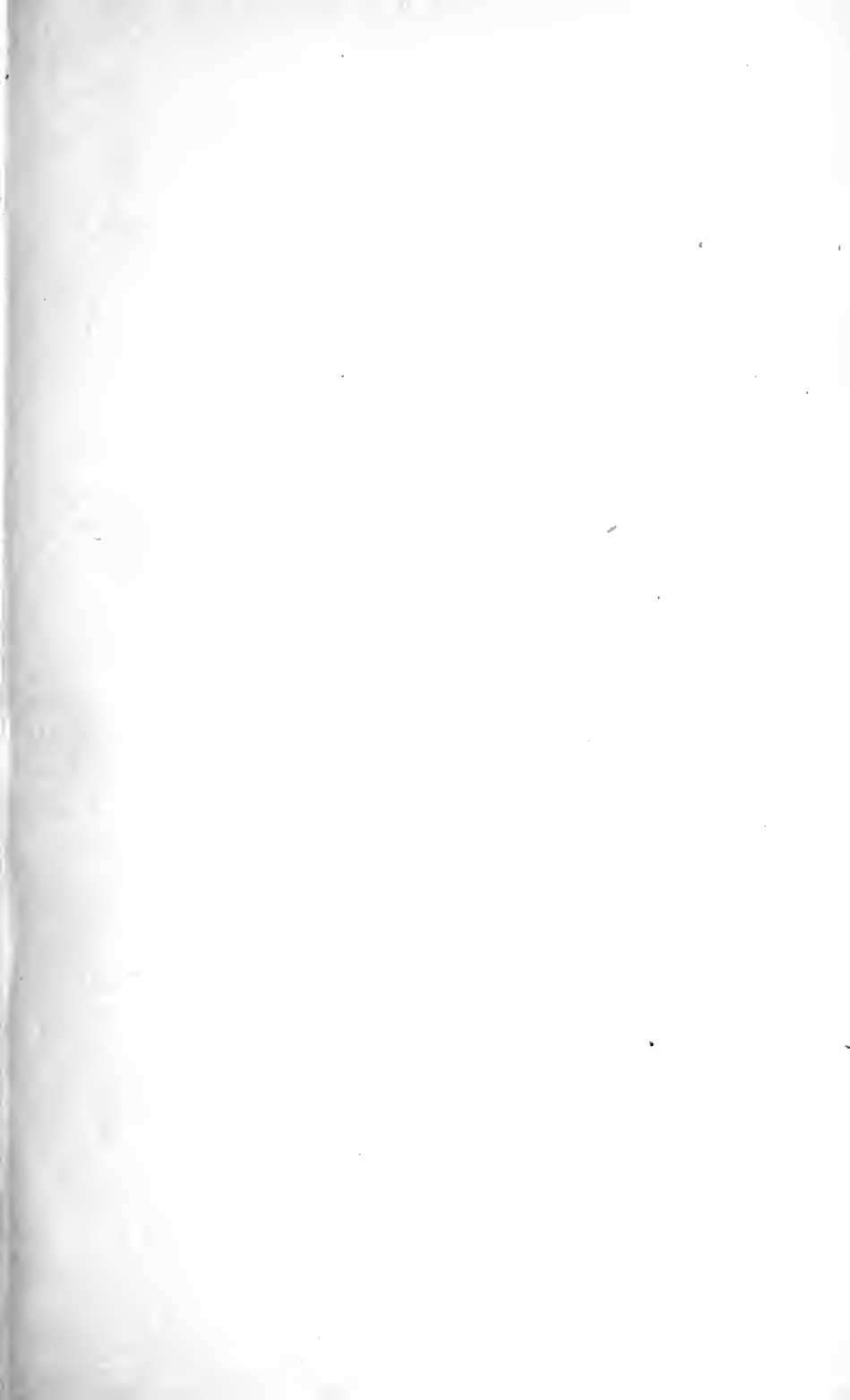
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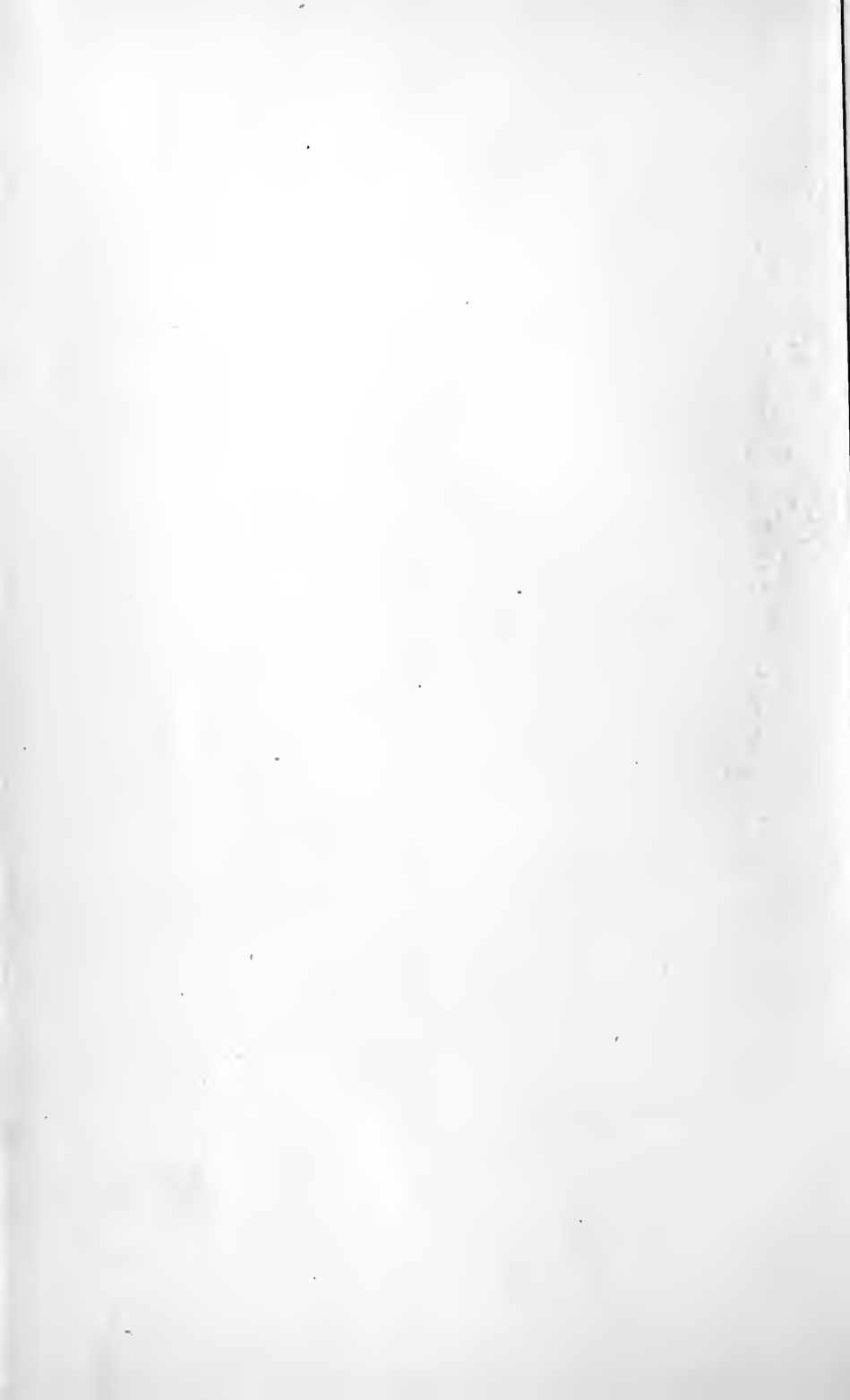


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A

STATEMENT

OF THE

CAUSES WHICH LED TO THE DISMISSAL

OF

SURGEON-GENERAL

WILLIAM A. HAMMOND

FROM THE ARMY;

WITH A

REVIEW OF THE EVIDENCE ADDUCED BEFORE
THE COURT.

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A STATEMENT
OF THE
CAUSES WHICH LED TO THE DISMISSAL
OF
SURGEON-GENERAL WILLIAM A. HAMMOND.

ON the 25th of April, 1862, I was commissioned by the President Surgeon-General of the Army of the United States. The position was not of my seeking, but was given through the efforts of friends who had known me, either personally or by reputation, for many years, and who had confidence in my honor and in my ability to discharge the responsible duties belonging to the office. I had served in the army nearly eleven years without a stigma ever having been placed upon my character; had labored, not altogether without success, to advance the interests of science; had occupied the Chair of Anatomy and Physiology in the University of Maryland; and, on the breaking out of the rebellion, had resigned my professorship and returned to the army as an assistant surgeon, though with the loss of all the rank acquired by my previous service.

Chief among those who had exerted themselves for my appointment were Major-General McClellan and members of the United States Sanitary Commission. The former first mentioned my name for the position; it was owing to the persistent efforts of the latter that the bill reorganizing the Medical Department became a law, and it was mainly due to their personal exertions that the President determined to place me at the head of the corps. At the time I was serving in the Department of Western Virginia, as Medical Inspector of Camps and Hospitals; my rank was that of first lieutenant, and there were many of that grade who were my seniors—I was scarcely thirty-four years old.

As was to have been expected, my appointment caused a great deal of ill feeling. The older members of the corps—who had served, many of them, more years than I had lived—felt aggrieved. The feeling was a perfectly natural one, and I entertained no animosity against those who experienced it. I think I may safely say that not ten of those who ranked me, regarded my selection

with favor; and one at least, who at the time was acting Surgeon-General, had taken every means in his power to defeat my nomination and confirmation. It will be easily seen, then, that I had a difficult undertaking before me, even with everything in my favor. With the persistent enmity of the Secretary of War, to whom I had a right to look for official support and countenance, the task was almost insurmountable. There was a large department to reorganize, the angry feelings of those who deemed themselves outraged were to be soothed, and there were to be selected, for important positions, officers who were capable of carrying out the views of improvement which I desired to put in practice.

In a great measure I was successful. I say this without hesitation. It is not only my own opinion, but it is the opinion of those both in this country and in Europe who are competent to judge. Many of the older members of the corps became my friends. They were men whom I had loved and respected for years, with whom I had served, and who knew me too well to believe that I would wantonly commit any act calculated to wound their feelings. I regarded it as my bounden duty to treat them with the consideration which their faithful services demanded. So far did my efforts extend, that I went personally to the Secretary of War with the one who had most actively opposed my appointment, and, at his solicitation, requested his appointment as Assistant Surgeon-General. The Secretary of War remarked to me at the time, that it was the weakest act I had done in my life, and that the officer in question would never be my friend. Mr. Stanton had promised him the appointment, provided it met my approval. He counted on my being as vindictive as he would have been in my position. He never forgave me for the disappointment I caused him. The language he made use of, however, would have been worthy of a soothsayer, for it has been abundantly verified.

When I assumed my duties, the affairs of the Department were far in arrears. Several of the books were many months behind-hand, and no adequate preparation had been made to meet the tremendous emergency which was close upon us. It must not be supposed that I attribute these shortcomings to my predecessor. I do not know of my own knowledge how far he was directly responsible for them. I do know, however, that he had been treated in the most unjustifiable manner by Mr. Stanton, and I give him credit for honesty of purpose and the honorable feelings of a gentleman, which his superior in office has never yet seemed capable of appreciating in any one placed under him.

The routine and details of the bureau were the same that had been in operation when the army numbered but fifteen thousand men. It was now over seven hundred thousand. There were then, I think, but eight clerks to do the whole business of the

office. In less than two months, there were over sixty, and this number was subsequently increased. Not only was it necessary to extend the machinery of the office, but entirely new sub-bureaus had to be opened.

The scientific results of the war had been altogether neglected. I organized an army medical museum; instituted manufacturing laboratories in New York and Philadelphia; called for fuller and more explicit reports than had previously been demanded of medical officers; placed the work of preparing a medical and surgical history of the rebellion in competent hands; and excited a spirit of professional emulation which has been productive of the best results.

The hospital system had scarcely received any attention. A great part of my time, during the first three or four months of my administration, was spent in planning and locating hospitals, and visiting the battle-fields. With the assistance of those members of the corps who understood my objects and entered into my views, hospitals for over twenty thousand sick and wounded were in that period established in Washington alone; and in one instance beds for five thousand were set up in five days. In the spring and summer of 1862, accommodations were provided for over seventy thousand sick and wounded soldiers. This was no trifling task, for not only did the material and the officers and attendants have to be obtained, but in many cases the hospitals had to be erected. These hospitals were mostly built according to my designs, after a thorough study of the subject, and were constructed with a view to every necessary condition of hygiene and comfort. They have received the unqualified approbation of all intelligent observers as the best the world has ever seen; and though the immediate labor of their construction was done by the Quartermaster's Department, the Medical Department was charged with the duty of seeing that they were in all respects suitable for the purpose.

Thousands upon thousands of sick and wounded were accumulating on my hands, but I was prepared for them. I had strained every nerve, had given my almost undivided attention to the subject of looking after their welfare, and they were provided for as no disabled soldiers ever were provided for before. Even my nights, during all this period, were occupied in writing a work specially designed to enlighten the medical officers in regard to every point necessary to make the condition of those committed to their charge as tolerable as possible.

While, as in duty bound, I endeavored to accomplish the purpose of insuring the comfort of those who suffered for their country, with a due regard to economy, I am perfectly free to confess that the saving of money was altogether a secondary object. My first duty was to save life. I did not know how to value that of

a sick or wounded soldier by any pecuniary standard; and if I had retained the office of Surgeon-General till my dying day, I should never have acquired that knowledge. My acts, therefore, excited comment. I was accused by the wicked and the ignorant of useless extravagance; supplies of the variety of those issued had never been furnished before, and they were of a standard of excellence which was marvelous, considering the haste with which they were necessarily put up.

The disbursements of the Medical Department before the war were but about \$100,000 a year; my expenditures were at the rate of \$1,000,000 a month. They are no less now, under a successor who, among other reasons, was appointed to enforce a rigid economy, but one of the first of whose acts was to send in an annual estimate \$2,000,000 greater than any I had ever made.

The outlay of so large a sum of money brought around me a number of persons, who were importunate for what they called a share of the public patronage. I have many letters, from members of Congress, and others who are now loudest in their denunciations of me, begging me to give orders to their friends. I select only two, which, as they are types of the others, will be sufficient to show that no idea of my not possessing the right to regulate the purveying business was entertained.

Five days after my appointment, and only two after I took charge of the office, I received the following:—

WASHINGTON, April 30th, 1862.

DEAR SIR:—

Inclosed please find note from ———, of ———, to which your attention is requested. Please give it as favorable consideration as possible.

Truly yours,

(Signed)

H. WILSON.

This letter inclosed a note from ——— to the Hon. Henry Wilson, then, as now, Chairman of the Senate Committee on Military Affairs. The note was simply an application to Mr. Wilson to use his influence in behalf of the writer in securing the retention and extension of his transactions with the Medical Department. Mr. ——— was informed that no change in the mode of obtaining supplies was contemplated.

SENATE CHAMBER, WASHINGTON;
January 15th, 1863.

MY DEAR SIR:—

The bearer, ———, of the firm of ———, of Philadelphia, has been of so much service to the friends of the Government in Pennsylvania in all their trials to sustain the President and his administration, and his firm is of so high and unquestionable a character, that I take the liberty of asking that you may honor him with a share of your patronage in Philadelphia. I do this with less reluctance, since I have learned from Mr. ——— that he has already laid his case before you; and I cheerfully add the expression, that I

should feel your encouragement of his house, if this can be done without detriment to the public service, as a favor done to myself.

Yours truly,

W. A. HAMMOND,

Surgeon-General.

J. W. FORNEY.

This is one of two letters which I have in my possession from Mr. Forney. As I had never seen this gentleman, I considered him impertinently familiar, and did not hesitate to express my opinion to this effect. Since my trial, he has been among the most active—in his two newspapers, the *Chronicle*, of Washington, and the *Press*, of Philadelphia—in abusing me for construing the law, as he, Senator Wilson, and many others wished me to construe it in favor of their friends. I do not give the names of the dealers in whose behalf they wrote, as it is very far from my intention to mix them up in my affairs, and I have no reason to blame them for their action.

Now, although I had, as I thought then, and still believe, the right to direct when, where, and of whom purchases should be made, I never gave a dozen orders myself, either directly or indirectly, in favor of any one. But I sanctioned large expenditures. I considered them necessary, and they were necessary, to bring the administration of the Department up to the advanced state which had been reached in foreign armies, the British especially. I never counted dollars when a man's life was in question. As an illustration of my views, the following letter, addressed to Assistant Surgeon J. Letterman on his appointment as Medical Director of the Army of the Potomac, is subjoined:—

SURGEON-GENERAL'S OFFICE,
June 19th, 1862.

ASSISTANT SURGEON J. LETTERMAN,

Medical Director Army of the Potomac.

SIR:—

You are detailed for duty with the Army of the Potomac as Medical Director.

In making this assignment I have been governed by what I conceive to be the best interests of the service. Your energy, determination, and faithful discharge of duty in all the different situations in which you have been placed during your service of thirteen years, determined me to place you in the most arduous, responsible, and trying position you have yet occupied.

On the eve of your departure, I desire to place before you some of the main points which should engage your attention:—

1st. You should satisfy yourself that the medical supplies are of proper quantity and of *good quality*, and that each regiment has its full allowance; and you will hold the senior medical officer to a strict accountability for any deficiency. The time has passed when the excuse of no supplies will be accepted.

2d. You will lay before the officers of the Quartermaster's Department your necessities in regard to transportation, and communicate freely with the General commanding relative to those things in which he is able to assist you.

3d. You will require all medical officers to be attentive and faithful in the

discharge of their duties, and you will report instantly to the General commanding and to this office all cases of dereliction.

4th. You will, in conjunction with Assistant Surgeon Dunster, U. S. Army Medical Director of Transportation, arrange for the safe, effectual, comfortable, and speedy transportation of such sick and wounded as in your opinion should be removed from the limits of the army to which you are attached. You will bear in mind, however, the provision of General Order No. 65, relative to the transportation of troops, and you will, therefore, as far as possible, provide for those cases at such points in your vicinity as may seem best adapted to the purpose.

5th. You will hire such physicians, nurses, etc. as you may require and as you can obtain on the spot, making known to me immediately your deficiencies in that respect at the earliest possible moment, so that I can supply you.

For the full performance of all these duties you are authorized to call directly on the Medical Purveyors in Washington, Baltimore, Philadelphia, and New York, who will be directed to furnish you with everything you may ask for, regardless of supply tables or forms. You will only be required to notify me by letter what you have ordered, and of whom; and you are directed to correspond frequently with me, and to make known such wants as can only be filled by my requisitions on the several bureaus here or through the orders of the Secretary of War.

And now, trusting to your possession of those qualities, without which I should never have assigned you to this duty, I commit to you the health, the comfort, and the lives of thousands of our fellow-soldiers who are fighting for the maintenance of their liberties.

I am, Sir, very respectfully,

Your obedt. servt.,

WILLIAM A. HAMMOND,

Surgeon-General U. S. Army.

My detail of Dr. Letterman met with opposition from the War Department, and it was only after some correspondence that it was made. Mr. Stanton did not like him, probably because I had previously recommended him for the position of Medical Inspector-General. This I did as soon as I was appointed Surgeon-General, and before any considerable ill feeling was excited in Mr. Stanton against me. He directed the appointment to be made. The papers were accordingly prepared by General Hart-suff; but before they were sent to the Senate, the Secretary of War had occasion to discover that it was not my intention to be his tool, and so he refused to give the appointment to one who would have made the office what it ought to be.

What tended also to lead to the supposition that I was reckless in expenditures, was my establishment of a diet table for hospitals. Previously no such thing was known. Every surgeon in charge of a hospital was allowed to feed his patients as he pleased. I appointed a board of medical officers to arrange a complete system of diet for hospitals. This was done, and was approved by me, and ordered to be strictly adhered to. Although the scale was no more liberal than that in operation in the hospitals of the British army, Mr. Stanton condemned it. Fearful, however, of popular opinion, he confined his demonstrations to the expression of his disapprobation. It must be recollected that the expense of

this diet table was, in the main, met by the sale of the ordinary rations of the inmates of hospitals, which they were unable to use, and was not a charge upon the Government.

Another cause of Mr. Stanton's hostility, which had now become manifest to every one who had the opportunity of observing his conduct, was my course in regard to the ambulance corps, which, notwithstanding his continued rebuffs, I persistently forced upon his attention. Again, afraid of what the country would think of his opposition to a measure so indispensable to the welfare of the sick and wounded, he left the matter to be decided by General Halleck. When I went to this officer with a plan for such a corps, he refused to hear me utter one word on the subject. I then sent it to the Secretary of War direct. It was referred to General Halleck, and disapproved. My first letter on the subject was as follows:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
August 21st, 1862.

SIR:—

In accordance with your verbal permission, I have the honor to submit the inclosed project for an Hospital Corps, and to ask your favorable consideration for the same.

The plan is merely submitted as a basis upon which the corps can be organized. Much will remain to be done by regulations, and I propose, should you approve the inclosed outline, to ask for a Board of Medical Officers to perfect the organization. I have not considered it necessary to enter into details; the first thing essential is to obtain your sanction to the organization of such a corps. The need for it is most urgent. In no battle yet have the wounded been properly looked after; men, under the pretense of carrying them off the field, leave the ranks, and seldom return to their proper duties.

The adoption of this plan would do away with the necessity of taking men from the line of the army, to perform the duties of nurses, cooks, and attendants, and thus return sixteen thousand men to duty in the ranks.

In view of these facts, and many others which could be adduced, I respectfully ask your approval of the inclosed project.

I am, Sir, very respectfully,
Your obedt. servt.,

WILLIAM A. HAMMOND,

HON. E. M. STANTON,
Secretary of War.

Surgeon-General.

As I have said, my plan was disapproved by General Halleck, and his action met with Mr. Stanton's approval.

On the seventh of September, after General Pope's defeat at Bull Run, when the whole country was shocked with the intelligence that our wounded lay for days on the battle-field exposed to every privation, I wrote again:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
September 7, 1862.

SIR:—

I have the honor to ask your attention to the frightful state of disorder existing in the arrangements for removing the wounded from the field of bat-

tle. The scarcity of ambulances, the want of organization, the drunkenness and incompetency of the drivers, the total absence of ambulance attendants, are now working their legitimate results—results which I feel I have no right to keep from the knowledge of the department. The whole system should be under the charge of the Medical Department. An ambulance corps should be organized and set in instant operation. I have already laid before you a plan for such an organization, which, I think, covers the whole ground, but which, I am sorry to find, does not meet with the approval of the General-in-Chief. I am not wedded to it. I only ask that some system may be adopted by which the removal of the sick from the field of battle may be speedily accomplished, and the suffering to which they are now subjected be in future as far as possible avoided.

Up to this date, six hundred wounded still remain on the battle-field, in consequence of an insufficiency of ambulances, and the want of a proper system for regulating their removal, in the Army of Virginia. Many have died of starvation, many more will die in consequence of exhaustion, and all have endured torments which might have been avoided.

I ask, Sir, that you will give me your aid in this matter, that you will interpose to prevent a recurrence of such consequences as have followed the recent battle—consequences which will inevitably ensue on the next important engagement, if nothing is done to obviate them.

I am, Sir, very respectfully,

Your obedt. servt.,

WILLIAM A. HAMMOND,

Surgeon-General.

HON. E. M. STANTON,

Secretary of War.

My application was again unsuccessful, and the Secretary told Governor Andrew (as I am informed by a gentleman who was present) that he had no confidence in my judgment. For my persistency, I received his personal abuse, and was warned against any repetition of my importunity.

How different the course of the Secretary of War and the General-in-Chief was from that of General McClellan, will be seen from the following letter:—

HEADQUARTERS ARMY OF THE POTOMAC,
October 25th, 1862.

GENERAL:—

An ambulance corps has been in existence in this army since August 2d, 1862, and has been of great service. It would be of still greater service were the men enlisted for this particular duty. I approve of an ambulance corps for the whole army, and consider it indispensable for the proper care of the wounded.

The men should be enlisted especially for this purpose, and used for no other, and should be placed in a camp of instruction and taught their duties.

The plan now in force in this army, I recommend, with some modification, to be adopted throughout the forces of the United States.

I am, very respectfully,

Your obedt. servt.,

(Signed)

GEORGE B. McCLELLAN,

Major-General U. S. Army.

MAJOR-GENERAL H. W. HALLECK,

General-in-Chief.

And, as showing the action of the Sanitary Commission, I subjoin the following letter:—

[COPY.]

U. S. SANITARY COMMISSION, NEW YORK AGENCY, 823 BROADWAY,
NEW YORK, February 26th, 1863.

HON. SENATOR WILSON.

DEAR GENERAL:—

I see that the House have passed the ambulance bill, and now that it is to go through the ordeal of the Senate, its fate is probably in your hands. I have attentively watched its history. The Surgeon-General, in connection with the Quartermaster-General, (who originally opposed the bill,) agreed upon the bill originally prepared by the Surgeon-General. It was carefully studied, and can only be harmed by tinkering. I sincerely hope it may be passed without hesitation or delay. I pledge you my word that it is a good bill and an honest one, and entitled to unqualified support from the Military Committee. I speak as an expert, who has made this matter a serious and careful study.

Let me entreat you again not to allow your faith in the Surgeon-General to be shaken. The Secretary of War, in whose patriotism, zeal, and ability I have general confidence, and whose hands I would not weaken by a word of public criticism, is, nevertheless, a man of strong personal prejudices, irritable, and often very unjust. His dislike of Dr. Hammond is a most unfortunate thing for the service. If he succeeds in injuring the Surgeon-General with the Military Committee or with the Senate, he will inflict a greater wound on the sick and wounded in the hospitals and in the army than he can heal over in two years to come.

The Surgeon-General has brought order out of chaos in his department, and efficiency out of imbecility. The sick and wounded owe a *hundred times* over more to the Government and the Medical Department than to all the outside influences and benevolence of the country combined, including the Sanitary Commission! The Surgeon-General is the best friend the sick soldier has in this country, because he wields the benevolence of the U. S. Government. For God's sake, don't thwart his zeal and wisdom.

Yours truly,

HENRY W. BELLOWS.

But all was in vain. The united wishes of General McClellan and myself could not be acceded to; and although the Sanitary Commission and eminent gentlemen in all parts of the country (among whom, Dr. H. W. Bowditch, of Boston, who had seen for himself, must be counted first) begged for favorable action on my application, their efforts were fruitless. After I was relieved from the charge of the bureau, the Secretary of War had no difficulty in agreeing to the establishment of an ambulance system. He was determined, however, that I should not only not have the credit of it, but should, so far as his action could insure it, have the blame for the sufferings the wounded were obliged to undergo.

In the fall and winter of 1862, I incurred a great deal of unpopularity from the fact that, although I had visited the armies of the East, I had not, since my appointment as Surgeon-General, been to the West. The newspapers denounced me for this failure,

and I received many letters from prominent gentlemen in the West, urging me to go to that section.

Before the public attention was directed to this matter, I had made application to the Secretary of War for authority to go West and had been refused. He saw that ill feeling would be excited against me, and he could not let slip the opportunity of doing me an injury. My first letter was as follows:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
January 5th, 1863.

SIR:—

I have the honor to request your authority to make a tour of inspection of the hospitals in St. Louis, Keokuk, Memphis, Nashville, and such other points as upon further consideration I may determine upon.

I am, Sir, very respectfully,

Your obedt. servt.,

WILLIAM A. HAMMOND,

Surgeon-General.

HON. E. M. STANTON,
Secretary of War.

I took this letter to the War Department myself, and was told by Mr. Stanton that I could not go. He even refused to receive the letter, and I brought it back and filed it in the office, with this indorsement:—

“Not approved by the Secretary of War.

“SURGEON-GENERAL'S OFFICE, }
“January 6th, 1863.” }

“WILLIAM A. HAMMOND,

Surgeon-General.”

On the thirty-first of January I wrote again. I knew the absolute necessity of giving my personal attention to the medical affairs of the Western armies. This was essential not only for the sake of the sick and wounded, but was also demanded from a regard for my own reputation, which I saw was suffering in that quarter. I was blamed for neglect, and with apparent justice.

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
January 31st, 1863.

SIR:—

I have the honor to request your authority to proceed to the West on a tour of inspection.

I have reason to believe that such a visit is almost indispensable at this time. I know that I feel the necessity of a more intimate acquaintance with the hospital arrangements, and other matters connected with the Medical Department there, than I can obtain in any other way than by personal observation.

I am, Sir, very respectfully,

Your obedt. servt.,

W. A. HAMMOND,

Surgeon-General.

HON. E. M. STANTON,
Secretary of War.

No notice whatever was taken of this letter.

As showing still further the line of action the Secretary of War had decided upon, I subjoin the following:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
March 2d, 1863.

SIR:—

I have the honor to request your authority to proceed to New York and Philadelphia on important business connected with the Hospital Department of the army.

I am, Sir, very respectfully,

Your obedt. servt.,

WILLIAM A. HAMMOND,

Surgeon-General.

HON. E. M. STANTON,

Secretary of War.

The business I explained to the Secretary the following day. It had reference to the laboratories which I had established in those cities for the manufacture of many of the medicines and stores required by the Medical Department. I understood him to consent to my going, and I intended to do so with my friend, Dr. S. Weir Mitchell, of Philadelphia, who was then in Washington; but on the morning I designed to leave I received a communication from the War Department, signed by Colonel Hardie, which contained the following sentence:—

“In the opinion of the Secretary of War, it is the duty of the chief of a bureau to remain in Washington, and transact his business in writing.”

Considering the fact that a few months subsequently the Adjutant-General, the Quartermaster-General, the Commissary-General, the Chief of Ordnance, the Chief Signal Officer, and the Surgeon-General were all sent away from Washington, we cannot fail to perceive the remarkable change which Mr. Stanton's opinion underwent, or avoid the conclusion that, so far from being actuated by principle, he was governed by some unworthy motive.

One of the first means which the Secretary of War took to embarrass me in my duties as Surgeon-General, and to bring me, if possible, into disrepute, was his persistent refusal to place funds in the hands of the Medical Purveyors. Owing to this course on his part, supplies had to be purchased at advanced rates, and the debts of the Medical Department not being paid when due, a great deal of complaint was made by those who suffered. Many of these were poor men, and they and their families were dependent on the small incomes they received from the Government. My correspondence with Mr. Stanton on this point was so extensive that it will be impossible to bring forward all my letters. They are, however, attached to the record of the court-martial before which I was tried, and will all see the light when that record is published

The following will be sufficient to show the nature of the diffi-

culty which existed. It must be recollected that my letters were based upon the official representations of medical officers, besides my own personal knowledge:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
November 19th, 1862.

SIR:—

In consideration of the very great need of funds for medical and hospital purposes in the West, I have the honor to request that you will direct the payment of a requisition from this office, dated October 8th, 1862, which bore your approval or sanction some time early in October last. The requisition was made in favor of Surgeon Glover Perin, Medical Purveyor at Cincinnati, for \$87,204 82, to cover one for the same amount in favor of Assistant Surgeon J. P. Wright, Medical Purveyor at Cincinnati, Ohio, dated 10th July. * * * * *

Medical disbursing officers in the West are out of funds, the creditors against Government are clamorous for payment, and I respectfully request your prompt action in the matter.

Most respectfully,

Your obedt. servt.,

WILLIAM A. HAMMOND,

HON. E. M. STANTON,

Secretary of War.

Surgeon-General.

SURGEON-GENERAL'S OFFICE, WASHINGTON, D. C.,
December 5th, 1862.

SIR:—

I have the honor to inform you that it is officially reported to this office that many families of Government employes in Philadelphia are suffering from want of food, fuel, and clothing, caused by the absence of funds in the hands of the disbursing officer in Philadelphia. Also, that the gas has been shut off from the premises of the Medical Storekeeper on the same account.

I therefore respectfully request that a portion of the funds placed to the credit of Surgeon Cooper be transferred to the credit of Medical Storekeeper V. Zoeller, for the payment of such indebtedness.

I am, Sir, very respectfully,

Your obedt. servt.,

WILLIAM A. HAMMOND,

HON. E. M. STANTON,

Secretary of War.

Surgeon-General.

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
February 16th, 1863.

SIR:—

I have the honor to transmit the inclosed requisitions for your approval, as follows:—

Surgeon R. S. Satterlee, New York	\$250,000 00
“ R. Murray, Philadelphia.....	250,000 00
“ P. G. S. Ten Broeck, San Francisco.....	15,000 00
“ C. C. Cox, Baltimore.....	5,000 00
M. S. K. Hennel Stevens, Cairo.....	1,000 00
Surgeon Chas. Sutherland, Memphis.....	5,000 00
M. S. K. Henry Johnson, Washington.....	250,000 00
“ Henry N. Rittenhouse, Cincinnati.....	88,608 35

The several amounts of these requisitions are now all due, and most of them have been due for months. I have to request, therefore, that such a

course may be taken as will place the required funds in the proper places for distribution as soon as practicable.

I am, Sir, very respectfully,

Your obedt. servt.,

W. A. HAMMOND,

Surgeon-General.

HON. E. M. STANTON,

Secretary of War.

In answer to a pressing application for money from Surgeon Robert Murray, Medical Purveyor at Philadelphia, the following letter was written:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
February 28th, 1863.

SIR:—

Your communication of the 26th inst., requesting that the balance of the requisition, viz., \$125,000, may be sent to you in money, has been received.

In reply, I am instructed to say that this department is taking every step in its power to hasten the issue of money to its disbursing officers. It knows and appreciates the urgent necessity for such issue, and has not neglected its duty.

By order of the Surgeon-General.

Very respectfully,

Your obedt. servt.,

C. H. ALDEN,

Assistant Surgeon U. S. Army.

(Signed)

SURG. ROBERT MURRAY, U. S. A.,

Medical Purveyor, Philadelphia.

These are a few only of the letters written relative to funds; and in consequence of the neglect and refusal of the Secretary of War to do his duty, the credit of the Medical Department was seriously impaired and its operations materially interfered with. At Louisville, Kentucky, a great need existed for funds, but the only answer I received to my application that they should be sent there, was the following:—

WAR DEPARTMENT, WASHINGTON CITY,
August 29th, 1863.

SIR:—

I have the honor to report, that your request (date blank) for a remittance of \$100,000 to Surgeon A. P. Meylert has been cancelled in this office, by the Secretary of War, before it passed into the Treasury.

Very respectfully,

Your most obedt. servt.,

E. WINSTON HALL,

Requisition Clerk.

To SURGEON-GENERAL W. A. HAMMOND.

In answer to my verbal remonstrances with Mr. Stanton, which were frequent, the only reply ever made was that doctors knew nothing of money matters, and he would not trust them with large amounts.

During all this period there were no regulations but those which had been adopted for the old army of fifteen thousand men. Of course they were inadequate, and in many cases altogether inap-

plicable. After repeated requests, I succeeded in having a board detailed to prepare a new code. When their labor was completed, the Secretary refused to act upon the regulations recommended. I had, therefore, to assume responsibilities and powers, which otherwise it would not have been necessary for me to take.

I have thus run over, as briefly as possible, some of the points which show Mr. Stanton's animus. It may be asked, "what was the reason of his animosity?" The cause existed in the fact that I gave him to understand, from a very early period of my official career, that I, for one, would not quietly submit to the insolence which he constantly exhibited toward his subordinates.

Two days after my appointment, he sent for me. I went to his office, and the following conversation took place. His tone and manner were offensive in the extreme, being that of one who is determined to crush out if possible all opposition:—

"What are Dr. Bellows and the Sanitary Commission about?" asked he.

"I don't know, sir," I answered.

"I want to tell you," he said, "that if you have the enterprise, the knowledge, the intelligence, and the brains to run the Medical Department, I will assist you."

"Mr. Secretary," I replied, "I am not accustomed to be spoken to in that manner by any person, and I beg you will address me in more respectful terms."

"What do you mean?" he exclaimed.

"Simply," I said, "that during my service in the army, I have been thrown with gentlemen, who, no matter what our relative rank was, treated me with respect. Now, that I have become Surgeon-General, I do not intend to exact anything less than I did when I was an Assistant Surgeon, and I will not permit you to speak to me in such language as you have just used."

"Then, sir," said he, "you can leave my office immediately." I accordingly left it, and I have never entered it or his house since, except upon strictly official business.

It would be impossible for me to detail the hundredth part of the insults of all kinds I was compelled, to some extent, to bear. Not content with inflicting all the personal indignities he thought it safe to venture upon, he did not hesitate to abuse me to others. Every obstacle at his command was thrown in my way. The organization of the Department intended by law was delayed on account of his persistent refusal to appoint the officers of the Medical Inspectors Corps; and thus, notwithstanding the positive enactment that immediately after the passage of the act, the officers to fill this corps should be selected, weeks and even months were suffered to elapse before the objects contemplated by Congress could be attained. The need for the services of these officers was most urgent, and was frequently brought to

Mr. Stanton's notice by myself and the President of the Sanitary Commission; and when at last he condescended to make the appointments, several, against my representations as to their unfitness, were selected, who had nothing but their political opinions and affinities to recommend them.

After Pope's defeat, when the wounded were being brought into Washington by thousands, I found it necessary to extend still further the hospital accommodations. The churches and other public buildings were filled, the Patent-office was used for the sick and wounded, and the only other buildings available were the Capitol and Executive Mansion. The latter was not then occupied by the President or his family, and not long before a company of soldiers had been quartered in it. I therefore made application for the Capitol and for the East Room of the President's house, the latter to be used as an officer's hospital.

When the application reached the Secretary, he sent for me, and I was again the recipient of his abuse. Again I repelled it, as I always did. I knew no reason why the sick and wounded should not have the best building in the country if it was necessary. Hundreds were then lying on the ground for want of a place in which to put them, and I told him so in plain language. The end of it was that the Capitol was ordered to be turned over to me. He was afraid to refuse it; but he informed me I should hear from him again on the subject, which, however, I never did, except that he told a distinguished officer of the army that my conduct had been exceedingly presumptuous. The East Room was never turned over if he ordered it.

During the whole time that I remained in Washington as chief of the Medical Bureau, I never had one word of advice or encouragement from Mr. Stanton. Amid all my embarrassments arising from inexperience in business, he never, by word or deed, gave me any assistance which he could refuse with safety to himself. Every advance which I made toward him was repelled with harshness. I was obliged to rely entirely on my own views and exertions, and such advice as I could get from other members of the corps. Although he studiously withheld his aid, I was repeatedly called upon to explain the most trifling acts on my part which appeared to him to be infringements on his rights. As an example of his littleness of mind and forgetfulness, the following letter is adduced. It is in reply to one from his office directing me, in peremptory terms, to report by what authority I granted passes to the Army of the Potomac.

SURGEON-GENERAL'S OFFICE, WASHINGTON, D. C.,
December 29th, 1862.

SIR:—

I have the honor to acknowledge the receipt of your letter of the 27th inst., requiring me to report by what authority passes are granted at my office to

visit Falmouth or any other place within the lines of the armies of the United States.

In reply, I have the honor to inform you that I grant such passes by authority of General Orders No. 48, dated War Department, Adjutant-General's Office, April 28th, 1862.

In addition to the above, par. iv., General Orders 187, dated Headquarters Army of the Potomac, camp near Falmouth, Va., November 27th, 1862, directs orders for passes from the Bureaus of the War Department to be honored.

I am, Sir, very respectfully,
Your obedt. servt.,

WILLIAM A. HAMMOND,
Surgeon-General.

HON. E. M. STANTON,
Secretary of War.

Here he had called me to account for doing what his own published order authorized me to do! I am not the only one whom he has visited with *quasi* reprimands for following his instructions, as many officers who read this statement will call to mind. To be subjected to Mr. Stanton's temper for acts which one has performed by his authority was bad enough, but to be required to report on affairs the consequences of his own deliberate conduct, was even more intolerable.

On the 24th of July, 1863, the Governor of Wisconsin wrote to the Secretary of War, requesting permission to remove the sick soldiers at Memphis and other points, belonging to his State, to their homes. The Governor stated that this privilege had been repeatedly denied him, but had been accorded to the Governor of Indiana. The Governor of Wisconsin set forth in fitting terms the unfairness of this discrimination being made in favor of another State and against Wisconsin, and that ill feeling was being excited in consequence.

This letter was referred to my office, with directions to report immediately why the Governor of Indiana had been allowed to take soldiers from the hospitals and remove them to his State. As I knew nothing about it, I sent the communication to the Medical Director of General Grant's army for report. In a few weeks the answer came that the sick and wounded Indiana soldiers had been removed in accordance with an order to that effect from the Secretary of War himself! A copy of this order was inclosed to me, and I sent it to Mr. Stanton as an answer to his call on me for an explanation. It was as follows:—

BY TELEGRAPH FROM WASHINGTON.

May 25th, 1863.

TO GOV. MORTON.

The Medical Director of General Grant's army is hereby instructed to cause such of the Indiana troops wounded in the late engagements, as will be probably unfit for service within forty days, to be transported to the United States hospitals in the State of Indiana, to the extent of their accommodations, under the direction of his Excellency Governor Morton.

This telegram will serve as a formal order.

(Signed)

EDWIN M. STANTON.

Of course these circumstances irritated him; and he was still further inflamed against me by my exposure of the character of the individual whom he had selected, with a full knowledge of his shortcomings and against my remonstrances, to fill the important position of Medical Inspector-General. I had detected this person in positive and willful falsehood, and had exhibited him in his true light. I had preferred charges against him for his misconduct, and a court was ordered for his trial, (as it appeared subsequently without Mr. Stanton's knowledge,) the witnesses were summoned, and the Judge Advocate, Major Gaines, was ready to go on with the case, when an order was received from the Secretary of War dissolving the court. The offender had been appointed because he was a relative of Mr. Fessenden, the present Secretary of the Treasury, and he was let off without a trial for the same reason. In a conversation which I had a few days previously with Mr. Fessenden, he asked me to withdraw the charges, and told me if I persisted in them it would be a bad thing for me. Of course I refused.

Even in the smallest matters, the interference of Mr. Stanton was exerted against me. An orderly of my own office, whom I had placed in arrest for a positive disobedience of orders, given in carrying out Mr. Stanton's instructions, was released by him. I was therefore not even allowed to enforce discipline among those who were under my immediate direction. To show the depth to which the Secretary of War could descend to gratify his malice, the following correspondence is given:—

WAR DEPARTMENT, WASHINGTON CITY,
February 5th, 1863.

The Surgeon-General will report specifically the charges upon which Corporal C. W. Thayer, Co. K, Scott's 900, is imprisoned in the guard-house, and the term for which he has been sentenced, and by what tribunal or authority.

By order of the Secretary of War.

(Signed)

P. H. WATSON,
Assistant Secretary of War.

To this order I replied as follows:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
February 6th, 1863.

SIR:—

I have the honor to acknowledge the receipt of your communication of the 5th instant, just received, and to state in reply thereto that Corporal C. W. Thayer, Co. K, Scott's 900, an orderly in my office, was confined in the guard-house for refusing to answer certain questions propounded to him in the course of an investigation, instituted by your order, in regard to certain charges made against J. N. Callan, a clerk of this office.

This confinement was preparatory to the preferment of specific charges against him for positive and willful disobedience of orders, and was the ordinary and customary mode of procedure in such cases. He was confined by

my authority, as his immediate commanding officer, an authority which is exercised by every commissioned officer of the army of every corps.

I am, Sir, very respectfully,

Your obedt. servt.,

WILLIAM A. HAMMOND,

Surgeon-General U. S. A.

HON. E. M. STANTON,

Secretary of War.

As I have said, the man was released and was placed again on duty in my office, mainly if not entirely through the exertions of the Medical Inspector-General previously referred to. Finally, this latter individual proceeded to such extremities that even the Secretary of War could no longer remain his advocate with safety. Other officers, among whom were Generals Hooker and Heintzelman, called attention to his practices, and I detected him in giving blank certificates of discharge to soldiers, and, having obtained two of these documents, sent them to the War Department with the following indorsement:—

These papers are respectfully submitted to the Secretary of War as exhibiting a reckless disregard of truth and propriety, and for the interests of the service.

In order to prevent such abuses as the present, the law authorizing officers of the Medical Inspector's Department to discharge soldiers provides "that every such certificate shall appear on its face to have been founded on personal inspection of the soldier so discharged, and shall specifically describe the nature and origin of such disability;" and no more effectual means could have been devised for neutralizing the efforts of the Government to maintain the numerical strength of the army than the issue to soldiers of certificates of discharge signed in blank, and of course marketable articles. These blank certificates and discharges, to which the signatures of the Medical Inspector-General are attached, were taken from a soldier by an agent of the Sanitary Commission, who placed them in my hands. The soldier received them from the Medical Inspector-General. I have reason to believe that these are by no means the only documents of the kind which have been issued by this officer; and the letter of Medical Inspector Coolidge, herewith inclosed, refers to another case which has come to his knowledge.

I respectfully submit to the Hon. Secretary of War, that an officer who would be guilty, in addition to his other offenses, of such acts as Dr. Perley is by those papers shown to have perpetrated, is unfit, by want of principle, by lack of common sense, and by a disregard for the interests of the Government he has sworn to support, to hold the commission of an officer of the army, or to be deemed worthy of association with the members of an honorable profession.

W. A. HAMMOND,

Surgeon-General.

SURGEON-GENERAL'S OFFICE, }
May 16th, 1863. }

And yet, notwithstanding all this, Dr. Perley was kept in office several months longer as Inspector-General, was then allowed to resign, and was immediately appointed a surgeon of volunteers, which position he now fills. The regard of the Secretary of War for law and common decency, when it is his interest to disregard both, is rendered sufficiently apparent from a consideration of his

course in relation to this man. I should not have brought the subject into this statement but for the fact that one of the specifications on which I was tried was for requiring the Medical Inspectors to send their reports to me.

Up to the period of my recommendation that Dr. Cooper should be relieved from duty as Medical Purveyor at Philadelphia, the Secretary of War had never found any fault with me for my financial management of the Medical Department. I had drawn up a bill providing for the appointment of Medical Storekeepers, to take charge of the large depots of supplies it was my intention to establish at various points. Previous to my appointment, it was not the custom of the Department to keep stores on hand in any large amounts. When a requisition was received by the Medical Bureau it was sent to the Purveyor in New York for issue, and he had the articles put up by the dealers. But this was attended with great delay. I had myself experienced the ill effects of this course, and I believe that one of the greatest improvements I inaugurated was the system of keeping stores on hand for any emergency likely to arise. This, however, was made the basis of one of the specifications against me. Mr. Stanton knew perfectly well what I was doing. He not only approved of the bill mentioned, but he amended it in his own handwriting, and I have now in my possession the original draft with his interlineations.

He approved of this bill because he thought it would give him patronage and more power; but as the law expressly provided that Medical Purveyors should purchase under the direction of the *Surgeon-General*, I did not intend that he should interfere if I could prevent it. In the very great majority of cases, the Purveyors purchased, untrammelled by me in any respect. When I thought it expedient or advantageous to the service, I gave them orders, as I had a right under the law to do.

I recommended Dr. Cooper's relief from duty as Purveyor for several reasons.

In the first place, many complaints were made to me relative to his disgustingly offensive manners. In the second place, I had frequently seen for myself that his conduct, instead of being that of a high-toned officer, was just the reverse; his office was a lounging place for those seeking orders, and was scarcely above a grog-shop in its status. In the third place, General Halleck had requested me to send Dr. Murray to Philadelphia, and there was no one there who could be so well sent away as Dr. Cooper. I did not suspect him of dishonesty. On the contrary, I thought him above reproach in this respect, and I was also entirely satisfied with his energy and promptness. Since then I have had abundant reason to know that his conduct was not so honorable as I had imagined.

In detailing Dr. Cooper for duty as Medical Director of General Buell's army, I gave no reasons to the Secretary of War until he subsequently called on me for them. Reasons for a detail never are given unless they are called for. The order was issued by him; but, through the influence of the dealers who were dependent on Dr. Cooper for patronage, he was replaced as Medical Purveyor, in Philadelphia, by the Secretary of War. Efforts were made by them to effect my removal, and money was attempted to be raised for the purpose. To this effect I have the evidence of two respectable merchants of Philadelphia, who were called on to contribute, one of them being told that he "could make a good thing of it." I do not give the names of these gentlemen now, but they are ready to speak out, should occasion require; and it is well known to many of my friends that they were approached in the manner stated.

As soon as Dr. Cooper learned that he was to be relieved from duty in Philadelphia, he wrote me a private letter, asking me to tell him freely why he was relieved. I wrote him a kind, friendly letter, in which I endeavored to spare him pain, at the same time that I gave him some of the reasons for removing him. That letter is as follows, and is the one in which I am accused of saying what was not true in reference to General Halleck. (2d Charge, p. 31.)

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
October 13th, 1862.

MY DEAR DOCTOR:—

I have just received your note. The detail of your relief from duty as Medical Purveyor went to the Adjutant-General a few days since. I told Smith to inform you of it.

It was with very great reluctance, even with pain, that I made the detail. I am entirely satisfied with your energy, faithfulness, and acquaintance with your duty; but I find great complaints made in regard to your manner, which were constantly reiterated from medical officers and citizens of standing. I believe the change would have been made over my head, had I not made it myself. I was forced to come to the conclusion that it was necessary to be done. Once before, the detail was made, but I would not sign it; and this time it lay on my table several days. This is one reason.

The second is even more imperative. Halleck requested, as a particular favor, that Murray might be ordered to Philadelphia. There was nothing for Murray to do there but to take your place, King's, or Smith's.

The latter have both been long in active service, and I thought it best to relieve you on that account. As A. K. Smith is in my opinion better suited to perform the duties of Purveyor than Murray, I decided to make him Purveyor, and Murray Medical Director of Transportation.

I assure you, that so far as your official action is concerned, I have not the least fault to find.

Yours sincerely,

W. A. HAMMOND.

Now, this was a private letter, written from one friend to another, under the sanctity of friendship. He sent it to the Secretary of War, in order that the latter might see what I had said in refer-

ence to the change being made over my head. This was the only part of the letter Mr. Stanton ever found fault with to me. He asked me if he had ever removed an officer against my wishes. I told him he had. He directed me to specify the instances, taking a pen in his hand with which to write down their names. I mentioned Dr. McMillan, whom, against my earnest remonstrances and those of the Medical Director of the Army of the Potomac, he had taken from his duties in the field, and sent to Albany to report to Governor Morgan for some State duty. I mentioned Dr. Bradley, whom he had directed me to remove from the charge of a hospital in Washington, because some woman found fault with his management. I cited three or four other instances, and told him I could adduce several more by consulting the records. He threw down his pen in a rage, and told me he wanted no further conversation with me.

As soon as I was informed that Dr. Cooper had sent my letter to the Secretary of War, I wrote to him as follows:—

SURGEON-GENERAL'S OFFICE,
October 20th, 1862.

SIR:—

In the discharge of the duties intrusted to me, I deemed it best, for the interests of the service, to request your relief from duty as Medical Purveyor in Philadelphia, and to assign you to duty as Medical Director of General Buell's army, in place of Surgeon Murray, who has been for a long period in active service in the field. You have seen fit (first extracting from me a private letter, in which I freely stated to you some of the reasons by which I had been governed) to use means for effecting a change of your order, hitherto unemployed by officers of your corps.

This course meets with my unqualified disapprobation; and by taking it you have forfeited the confidence of this department, and have shown that you are incapable of appreciating the relation in which you stand to the chief of your corps. I shall deem it my duty to see that you have as little opportunity as possible for exercising those traits which led me to request your transfer.

Very respectfully,

Your obedt. servt.,

W. A. HAMMOND,

Surgeon-General.

SURGEON GEO. E. COOPER,

U. S. Army, Philadelphia.

The only accusation touching my business management which the Secretary of War ever made to me was that of extravagance. Soon after the conversation just mentioned, he required me to make out a report of the transactions of the bureau before and after my appointment, which the chief clerk of my office informed me would take twenty-five clerks three months to prepare. I therefore made a written application for this number of clerks for this special labor, and also for additional office room. Both requests were refused. I then put two clerks, all I had to spare, at this duty. Six months afterward, additional clerks were appointed, and the report, after further correspondence, was sent in. The

labor on it was immense, and I have reason to believe the Secretary of War never looked at it.

Failing in all other means to bring me into sufficient odium for his purposes, he, on the 2d of July, 1863, without the shadow of law, appointed a special commission to examine into the affairs of the Medical Department. This commission was composed of A. H. Reeder, of Pennsylvania, George O. Brastow, of Massachusetts, and Thomas M. Hood, of Wisconsin. All were civilians. Reeder was a lawyer, and had been Governor of Kansas; Brastow had been a country shopkeeper; Hood's occupation is unknown to me. Reeder was the only one I knew, and he was my most implacable and unprincipled enemy. *The pay of these commissioners was fixed, by the Secretary of War, without the least authority of law, at eight dollars per day and their expenses. They continued in session about six months.*

While I was stationed in Kansas in the year 1854, a tract of land, settled upon by a family named Dixon, and close to Fort Riley, was wanted by Governor A. H. Reeder for his own use. To get possession of it was difficult, unless he could get the military reserve extended over it, so as to drive off the Dixons, by his influence at Washington get the reserve reduced, and then himself take up the tract. The reserve was extended over this land by Colonel Montgomery, against the repeated remonstrances of General (then captain) Lyon and myself; and, as was generally believed, and in fact testified to before the court-martial which tried Colonel Montgomery for his misconduct, at the direct instigation of Reeder. Colonel Montgomery was dismissed the service; Reeder, not long afterward, removed from the Territory. The following extract, from a statement of General Lyon, was published in the *Kansas Territorial Register* of November 17th, 1855. After giving some affidavits relative to the matter, General Lyon says:—

“In connection with the above, I deem it proper to state that soon after the agreement, and understanding that the reserve would not extend beyond Pawnee, Mr. Lowe made a claim, and I surveyed it, with Colonel Montgomery's full knowledge and consent; and after the Dixons came upon it Lowe put a house on it of government materials—which was done to hold the claim—and was not removed till after the settlement with Lowe, which the Dixons effected by the payment to him of \$225, on the express condition given by Colonel Montgomery that they should not be disturbed, he having threatened to drive them off if they did not settle with Lowe. I heard nothing more of a design to drive off the Dixons, and am sure none was entertained till the occasion of Governor Reeder's second visit to Fort Riley, (about the middle of December, 1854,) when he (Governor Reeder) expressed to me and others a strong aversion to their position and occupancy of it, and his friends (Johnson, Klotz, and Sherwood) intimated that Pawnee would not be the capital unless the Dixons were removed; and the proposition first made to me by Sherwood, in the presence of Colonel Montgomery, and afterward by Johnson, to buy them off was entertained till it was found they would not sell, and on the morning of Governor Reeder's departure

(December thirteenth) the order for the removal of the Dixons was issued, and soon after I made the survey of the reserve under verbal directions of Colonel Montgomery, who told me that if I went down the river far enough to take in the Dixons it was all he cared for; and I have been told by two reliable persons that he said his object in extending the reserve around Pawnee was to drive off the Dixons—this extension being in violation of the promise made to members of the Pawnee Association and to the Dixons. The circumstances of the case, and expressions which have transpired in connection with this subject, have led me to the full persuasion (in which I presume all others are who are acquainted with them) that the project to drive off the Dixons was first instigated by Governor Reeder and executed by Colonel Montgomery for the purpose of securing the claim for Governor Reeder, who I understand entertained no apprehensions but that he could get the reserve as ran, modified by Frank Pierce, as he expressed it, when he should have occasion for it. * * * * *

(Signed) N. LYON."

Reeder's schemes for self-aggrandizement were defeated mainly through the efforts of General Lyon and myself, and he frequently expressed his intention of revenging himself on us both. The enemy's bullet removed General Lyon from his reach, but Mr. Stanton's malice gave him a temporary control over me, and the opportunity of doing me an injury.

In Reeder the Secretary of War found a fitting instrument for the work he had in hand. Inimical to me in the highest degree, unscrupulous, dishonest, cowardly, and ignorant, no man in the country could have served his purpose better. The work was of a character which required the actors to be devoid of principle and of all considerations of delicacy or propriety. They were not only to be the means of removing me from office, but they were to rob me of the good name which I had constantly endeavored to keep untarnished by dishonor, and which had never been assailed by a single upright and honorable person.

The examination by this Commission was entirely *ex parte*. I was never called on for an explanation of any kind, and no witness was allowed to say anything which could be interpreted as favorable to me. I was never present at any session of the Commission. On the contrary, as soon as they had fairly entered upon their work, I was ordered to locate myself in the Department of the Gulf till further orders. I was therefore relieved from the charge of the Medical Bureau in Washington, and on the 30th of August, 1863, left that city. I have never been in charge of the Department since.

All this was oppressive and illegal, but I made no remonstrance. The ostensible cause for my banishment was the necessity for looking after the sanitary condition of the troops. I knew this was a false reason. The true one was the desire to have me out of the way while the examination was going on, and this was quickened in its operation by an indorsement which I had a short time previously sent to the Secretary.

A Dr. Bayne had presented to me his appointment as a full surgeon of the volunteer staff corps. As this gentleman had not complied with the law, Mr. Stanton had exceeded his authority in giving him an appointment. I therefore sent the papers back to the War Department with this indorsement:—

“Respectfully referred to the Secretary of War. I am of the opinion that this doctor has received, by mistake, an appointment intended for some other person. Dr. J. H. Bayne has not been examined, nor is he an assistant surgeon of the corps of surgeons and assistant surgeons of volunteers, both of which are made prerequisites for the appointment of surgeon of volunteers by the Act of Congress, published in General Orders No. 79, of 1862. I therefore respectfully submit these papers for the instructions of the Secretary of War in the case.

“W. A. HAMMOND,
“*Surgeon-General.*”

“SURGEON-GENERAL’S OFFICE, WASHINGTON CITY, }
“August 1st, 1863.”

I heard nothing more of the matter while I remained in charge of the bureau. As soon, however, as I had left New York, the man was again appointed, and my successor proving more pliable, nothing was said. Thus, in direct violation of law, the medical corps had to submit to the outrage of having a probably incompetent person thrust upon it. Can anything be plainer than this? Does it not show that Mr. Stanton’s regard for law is only active when he has his own private animosity to gratify? This Doctor Bayne was his personal friend, and to give him office he violated a positive enactment of Congress, designed expressly to prevent the entrance of any one into the medical corps unless he had previously established his competency before a board of medical officers appointed for the purpose by the Surgeon-General.

As I had long wished to inspect the Medical Department of the South and West, I received the order previously mentioned with pleasure, so far as the duties of inspecting were concerned. I made several reports to the Secretary of War, not one of which was acted upon or even acknowledged by him; and when I had completed the examination at New Orleans, I returned to Washington. That was my legal station, and he had no right to station me in the Department of the Gulf. Mr. Stanton informed me on my return that he did not intend to place me in charge of the bureau at that time, and, at my request, I was ordered to inspect at Chattanooga. The order was, however, coupled with another requiring me to remain at Nashville till further orders. On my arrival at Louisville, I found the following letter awaiting me:—

WAR DEPARTMENT, WASHINGTON CITY,
December 2d, 1863.

SIR:—

The Secretary of War has been informed that in September, after you had been relieved from the charge of the Surgeon-General’s Bureau, you per-

sonally ordered in Philadelphia a purchase to be made of certain supplies by Purveyor Murray. If you did so, after you were relieved from the charge of the bureau, the Secretary regards it as a violation of your duty, and he directs that in future you abstain from making any purchases or contracts on behalf of the Medical Bureau, or doing anything else but the inspecting duties which have been assigned to you. You will not fail to report from Nashville when you get through with the inspection directed to be made there and at Chattanooga, and you will remain in Nashville until you receive further orders.

By order of the Secretary of War.

(Signed)

E. D. TOWNSEND,

Assistant Adjutant-General.

BRIGADIER-GENERAL WILLIAM A. HAMMOND,

Surgeon-General U. S. Army.

This was the first order I had ever received from the Secretary of War not to make purchases. And the prohibition is apparently given solely because I was no longer in charge of the bureau. It was the first time also that he had ever placed matters in such a form as would admit of any decisive action on my part. I wrote immediately as follows:—

LOUISVILLE, KY., December 6th, 1863.

SIR:—

I have the honor to acknowledge the receipt of your communication of the 2d instant, in which it is stated that you have been informed that in September last, after I was relieved from the charge of the Medical Bureau, I personally ordered the Medical Purveyor in Philadelphia to purchase certain supplies.

The information is partly correct. I did order Surgeon Murray to forward disinfectants as soon as possible to the Departments of the South and Gulf, which I was directed to visit, understanding, of course, that if they were not on hand they were to be purchased or prepared by him. Upon referring to my first communication, (dated about the 8th of September last,) made in obedience to your orders, you will find that this fact is officially stated. The first information of my action was therefore given to you by myself. Moreover, upon referring to the instructions given me previous to my departure, it will be seen that I was ordered to secure the adoption of the proper sanitary measures to insure the health of the troops in those departments. As I knew that the supply of disinfectants was not large, I deemed it my duty to provide them. They arrived in New Orleans in time to be of the greatest service in purifying the vessels used in the transportation of the troops of General Banks' expedition to Brownsville, and which at that time were threatened with the infection of yellow fever.

In regard to being relieved from the charge of the Bureau, my instructions were to the effect that, during my absence, and until further orders, I was to be relieved from the charge of the Surgeon-General's Bureau in Washington. I certainly did not understand that such relief from duty in Washington annulled my authority as Surgeon-General, conferred upon me by the President and Senate of the United States. I had no reason to think so, for I was neither in arrest nor deprived of my commission, nor in former instances of my absence was any such construction, to my knowledge, adopted by you. I endeavored to act with a view to the best interests of the service, as my judgment dictated; am not conscious of having committed any offense against military discipline or propriety, and consequently do not admit the correctness of your opinion, that I have violated my duty.

Your order, as now communicated, "to abstain from ordering or making any purchases or contracts on behalf of the Medical Bureau, or doing anything else but the inspecting duties which have been assigned to me," and the reiteration of the order to remain at Nashville until further orders, will, of course, be obeyed; but as such unusual instructions to the Chief of a Bureau of the War Department would seem to imply the existence of charges against me, or the belief on your part that I am not capable of the proper performance of my official duties, I respectfully request, if this supposition be correct, that a court of inquiry or a court-martial, as you may deem best, may be ordered as soon as possible for my trial. I do not ask this as a favor but as a right, due both to me and to the corps over which I am placed.

I have been subjected to the action of an inquisitorial, *ex parte*, extra-official, and prejudiced commission of civilians, presided over by a personal enemy whose character is far from being above reproach, and before which I have had no hearing. I have, while this so-called investigation was in progress, been ordered from my official residence to a distant station. I have been relieved from the charge of the Medical Bureau and deprived of my rightful authority and powers. I have not remonstrated against treatment which has appeared to me unjustifiable, simply from a desire to oppose no obstacle to the freest examination into my official record. But I should lay myself open to the imputation of submission to injustice, and should be wanting in self-respect if I continued to preserve silence. I therefore desire that my guilt or innocence, my fitness or unfitness may be passed upon by the tribunals established by law. I ask only for the privilege usually accorded to the vilest criminals—the right to be heard in my own defense.

I am, Sir, very respectfully,

Your obedt. servt.,

WILLIAM A. HAMMOND,

Surgeon-General.

HON. E. M. STANTON,
Secretary of War.

To this no answer was ever returned. Having completed my inspection at Chattanooga and reached Nashville, without hearing that a court had been ordered, I wrote to the President as follows. I saw that I could not look to Mr. Stanton for justice:—

NASHVILLE, TENN., December 23d, 1863.

SIR:—

I have the honor to ask the attention of your Excellency to the following facts:—

1st. That the Secretary of War has, without sanction of law, convened a special commission, composed of civilians, to examine into my acts as Surgeon-General, which commission has not afforded me a hearing either personally or by witnesses.

2d. That he has, without bringing me to trial, deprived me of my legal authority as Surgeon-General of the Army of the United States.

3d. That I have been removed from my official residence and ordered to Nashville—not on duty, but to await his further orders.

4th. That such a course of action on his part is calculated to place me in a false position before the country, subjecting me to the suspicion that I have committed offenses worthy of punishment.

5th. That I have remonstrated to the Secretary of War against treatment which I consider unjust, and have requested him to convene a court of inquiry or court-martial to examine into the truth of any alleged offenses on my part; but that thus far he has returned no answer to my application.

In view of these circumstances, I respectfully ask the interference of your

Excellency, to the effect that I may be immediately restored to my proper official position, or brought to trial, if any charges of malfeasance or unfitness are entertained against me. I have no disposition to avoid the severest scrutiny of my official or private record, and I rely with confidence on your Excellency's character for justice, to see that I am not further subjected to arbitrary or oppressive treatment.

I am, Sir, very respectfully,

Your Excellency's obedt. servt.,

WILLIAM A. HAMMOND,

Surgeon-General.

HIS EXCELLENCY THE PRESIDENT.

I also wrote to the Secretary of War for a copy of the report of the Reeder commission. No notice was taken of this application, and I have never seen the report to this day.

In the mean time my friends had not been idle, and applications were made by the Sanitary Commission and others for a court-martial. Rumors were rife that I was to be removed without a hearing being given me, and I was desirous of preventing such an act. All I asked for was a fair trial.

On the fifteenth of January I arrived in Washington, in accordance with permission, granted only after I had received a severe fall, by which I was paralyzed for several months, and on the seventeenth I was placed in arrest, and ordered to be tried by a court-martial, which was to meet on the nineteenth. I received the announcement with joy. I was confident that no unprejudiced court would convict me of wrong-doing, in the face of the evidence of my innocence which would be presented.

The charges upon which I was tried were as follows:—

CHARGE I.—“Disorders and neglect to the prejudice of good order and military discipline.”

Specification 1st—“In this: that he, Brigadier-General *William A. Hammond*, Surgeon-General United States Army, wrongfully and unlawfully contracted for, and ordered Christopher C. Cox, as Acting Purveyor in Baltimore, to receive blankets of one Wm. A. Stephens, of New York. This done, at Washington City, on the 17th day of July, in the year of our Lord one thousand eight hundred and sixty-two.”

Specification 2d—“In this: that he, Brigadier-General *William A. Hammond*, Surgeon-General, as aforesaid, did, on the first day of May, in the year of our Lord one thousand eight hundred and sixty-three, at Washington City, wrongfully and unlawfully, and with intent to favor private persons, resident in Philadelphia, prohibit Christopher C. Cox, as Medical Purveyor for the United States, in Baltimore, from purchasing drugs for the army in said City of Baltimore.”

Specification 3d—“In this: that he, the said Brigadier-General *William A. Hammond*, Surgeon-General United States Army, did unlawfully order and cause one George E. Cooper, then Medical Purveyor for the United States, in the City of Philadelphia, to buy of one William A. Stephens, blankets for the use of the Government service of inferior quality, he, the said Brigadier-General *William A. Hammond*, then well knowing that the blankets so ordered by him to be purchased, as aforesaid, were inferior in

quality, and that said Purveyor Cooper had refused to buy the same of said Stevens. This done at Philadelphia, in the State of Pennsylvania, on the twenty-eighth day of May, in the year of our Lord one thousand eight hundred and sixty-two."

Specification 4th—"In this: that he, the said Brigadier-General *William A. Hammond*, Surgeon-General, as aforesaid, on the fourteenth day of June, in the year of our Lord one thousand eight hundred and sixty-two, at the City of Washington, in the District of Columbia, unlawfully, and with intent to aid one William A. Stephens to defraud the Government of the United States, did, in writing, instruct George E. Cooper, then Medical Purveyor at Philadelphia, in substance as follows:—

'Sir: You will purchase of Mr. W. A. Stephens, eight thousand pair of blankets, of which the inclosed card is a sample. Mr. Stephens' address is box 250, New York. The blankets are five dollars per pair.'

And which blankets so ordered were unfit for hospital use."

Specification 5th.—"In this: that he, the said Brigadier-General *William A. Hammond*, Surgeon-General United States Army, on the sixteenth day of June, in the year of our Lord one thousand eight hundred and sixty-two, at the City of Washington, did corruptly, and with intent to aid one William A. Stephens to defraud the Government of the United States, give to the said William A. Stephens, an order, in writing, in substance as follows: 'Turn over to George E. Cooper, Medical Purveyor at Philadelphia, eight thousand pair of blankets,' by means whereof the said Stephens induced said Cooper, on Government account, and at an exorbitant price, to receive of said blankets, which he had before refused to buy, seventy-six hundred and seventy-seven pair, and for which the said Stephens received payment at Washington, in the sum of about thirty-five thousand three hundred and fourteen dollars and twenty cents."

Specification 6th.—"In this: that he, the said Brigadier-General *William A. Hammond*, Surgeon General United States Army, on the thirty-first day of July, in the year of our Lord eighteen hundred and sixty-two, at the City of Philadelphia, in the State of Pennsylvania, well knowing that John Wyeth and Brother had before that furnished medical supplies to the Medical Purveyor at Philadelphia, which were inferior in quality, deficient in quantity, and excessive in price, did corruptly, unlawfully, and with intent to aid the said John Wyeth and Brother to furnish additional large supplies to the Government of the United States, and thereby fraudulently to realize large gains thereon: then and there gave to George E. Cooper, then Medical Purveyor at Philadelphia, an order, in writing, in substance as follows: 'You will at once fill up your storehouses, so as to have constantly on hand hospital supplies of all kinds for two hundred thousand men for six months. This supply I desire that you will not use without orders from me.' And then and there directed said Purveyor to purchase a large amount thereof, to the value of about one hundred and seventy-three thousand dollars, of said John Wyeth and Brother."

Specification 7th.—"In this: that he, the said Brigadier-General *William A. Hammond*, Surgeon-General United States Army, about the eighth day of October, in the year of our Lord eighteen hundred and sixty-two, at Washington City, in contempt of and contrary to the provisions of the act, entitled 'An act to reorganize and increase the efficiency of the Medical Department of the Army,' approved April 16, 1862, did corruptly and unlawfully direct Wyeth and Brother, of Philadelphia, to send forty thousand cans of their 'Extract of Beef' to various places, to wit: Cincinnati, St. Louis, Cairo, New York, and Baltimore, and send the account to the Surgeon-General's Office, for payment, and which Extract of Beef so or-

dered was of inferior quality, unfit for hospital use, unsuitable and unwholesome for the sick and wounded in hospitals, and not demanded by the exigencies of the public service."

Specification 8th—"In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General United States Army, about the first day of March, in the year of our Lord eighteen hundred and sixty-three, at Washington City, in disregard of his duty, of the interests of the public service, and of the requirements of the act, entitled 'An act to reorganize and increase the efficiency of the Medical Department of the Army,' approved April 16, 1862, did order and direct that the Medical Inspectors should report the result of their inspections direct to the Surgeon-General."

CHARGE II.—"Conduct unbecoming an officer and a gentleman."

Specification 1st—"In this: that he, Brigadier-General William A. Hammond, Surgeon-General United States Army, on the thirteenth day of October, in the year of our Lord eighteen hundred and sixty-two, at Washington City, in a letter by him then and there addressed to Dr. George E. Cooper, declared in substance, that the said Cooper had been relieved as Medical Purveyor in Philadelphia, because, among other reasons, 'Halleck,' meaning Major-General Henry W. Halleck, General-in-Chief, requested, as a particular favor, that Murray might be ordered to Philadelphia, which declaration so made by him, the said Brigadier-General William A. Hammond, Surgeon-General, as aforesaid, was false."

CHARGE III.—"Conduct to the prejudice of good order and military discipline."

Specification 1st—"In this: that he, the said Brigadier-General William A. Hammond, Surgeon-General United States Army, on the eighth day of November, A. D. 1862, at Washington City, did unlawfully and corruptly order and cause Henry Johnson, then Medical Storekeeper and Acting Purveyor, at Washington City, to purchase three thousand blankets of one J. P. Fisher, at the price of \$5 90 per pair, and to be delivered to Surgeon G. E. Cooper, United States Army, Medical Purveyor at Philadelphia."

Specification 2d—"In this: that he, the said Brigadier-General William A. Hammond, about the third day of December, A. D. 1862, at Washington City, unlawfully purchased and caused to be purchased, of J. C. McGuire & Co., large quantities of blankets and bedsteads, and which were not needed for the service."

The words printed in italics were those of which I was found "Not guilty."

Upon examining the specifications, it will be seen that they can be classified under three heads:—

1st. Those which allege acts on my part which were in excess of my legal authority.

2d. Those which distinctly charge personal corruption and intent to aid others to defraud the Government.

3d. Willful falsehood.

I have always admitted that I ordered Dr. Cox to purchase blankets of W. A. Stephens.

That I disapproved of his making purchases in Baltimore.

That I directed Dr. Cooper to purchase 8000 pairs of blankets of W. A. Stephens, as stated in the 4th specification.

That I ordered Wyeth & Brother to send 40,000 cans of extract of beef to the places designated in the 7th specification.

That I ordered the Medical Inspectors to send their reports direct to me, as alleged in the 8th specification.

That I wrote to Dr. Cooper that General Halleck had requested me to order Murray to Philadelphia, as specified in the specification of the 2d charge.

That I ordered Medical Storekeeper Johnson to purchase three thousand pairs of blankets of T. J. Fisher. (There is no such person as J. P. Fisher in existence to my knowledge.)

I deny explicitly that those acts were done with any evil intent, or that they were unlawful. On the contrary, I contend that they were highly proper and within the strict line of my duty. I deny also that what I stated in regard to General Halleck was false.

And I affirm with equal positiveness, that it is false that I ordered Dr. Cooper to purchase blankets of W. A. Stephens, as set forth in the 3d specification of the 1st charge.

That it is false that I gave any such order to Stephens, as is alleged in the 5th specification.

That it is false that I ordered Cooper to purchase any supplies from Wyeth & Brother, as charged in the 6th specification; and

That it is false that I ordered purchases to be made of J. C. McGuire & Co., as set forth in the 2d specification of the 3d charge.

The findings of the court were as follows:—

CHARGE I.

Of the 1st specification, "Guilty."

Of the 2d specification, "Guilty," and that the offense therein charged was committed on the 30th day of May, A.D. 1863, except as to the words "with intent to favor private persons resident in Philadelphia;" and as to which words so excepted, "Not guilty."

Of the 3d specification, "Guilty."

Of the 4th specification, "Guilty," except as to the words "and which blankets so ordered were unfit for hospital use;" and as to which words so excepted, "Not guilty."

Of the 5th specification, "Guilty."

Of the 6th specification, "Guilty."

Of the 7th specification, "Guilty," except as to the words "corruptly and," "and which extract of beef so ordered was of inferior quality, unfit for hospital use, unsuitable, and unwholesome for the sick and wounded in hospitals, and not demanded by the exigencies of the public service;" and of the words so excepted, "Not guilty."

Of the 8th specification, "Not guilty."

Of the 1st CHARGE, "Guilty."

CHARGE II.

Of the 1st specification, "Guilty."

Of the 2d CHARGE, "Guilty."

CHARGE III.

Of the 1st specification, "Guilty," except as to the words "and corruptly," "and caused;" and as to which words so excepted, "Not guilty."

Of the 2d specification, "Not guilty."

Of the 3d CHARGE, "Guilty."

The 1st specification which alleges that I wrongfully and unlawfully contracted for, and ordered C. C. Cox, as Acting Purveyor in Baltimore, to receive blankets of one William A. Stephens, of New York; and the 2d, that I prohibited him purchasing in Baltimore, will serve as types of the others, which simply charge illegal acts—and are even better than several of them, because I admit the fact of said orders.

When I entered upon the duties of Surgeon-General I found it had been the custom of the Surgeon-General not only to direct, when he chose, of whom the Purveyors should make their purchases, but even to make them himself. The court refused to receive any testimony on this head; but I adduce it here as tending to show the usages of the service prior to my appointment. The following letters, which I extract from a number, are clear and distinct as to this point:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
February 5th, 1862.

SIR:—

You will please direct the Medical Purveyor of the Department of Western Virginia to make all his requisitions on General Henry Wilson, wholesale druggist, Columbus, Ohio. The special requisitions will, after being approved by the Medical Director, be sent directly to him; the general requisition as usual through this office. Liquors and instruments are not included in these instructions.

Very respectfully,

Your obedt. servt.,

(Signed)

C. A. FINLEY,

Surgeon-General.

ASSISTANT SURGEON JONA. LETTERMAN,

Medical Director, Dept. West. Va., Wheeling.

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
February 19th, 1862.

SIR:—

I have directed Samuel N. Pike, of Cincinnati, to forward to you 300 boxes of whisky, for which you will forward receipts to this office.

Respectfully, your obedt. servt.,

C. A. FINLEY,

Surgeon-General.

ASSISTANT SURGEON WM. A. HAMMOND, U. S. A.,

Medical Purveyor, Wheeling, Va.

Duplicates of this letter were sent to several other surgeons. I had made no requisition for whisky, and was in no want of it.

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
March 14th, 1862.

SIR:—

The Surgeon-General instructs me to inclose to you the within schedule of bedding and liquors, which he wishes you to have sent as soon as practicable to Surgeon J. M. Cuyler, at Fortress Monroe, Va. The Surgeon-General also wishes you to make an estimate of the amount of adhesive plaster you may shortly need, so as to order it of Mr. Chas. Shivers, of Philadelphia.

I have the honor to be,

By order.

Very respectfully, your obedt. servt.,

(Signed)

L. A. EDWARDS,

SURGEON C. H. LAUB,

Surgeon U. S. Army.

Medical Purveyor, Washington, D. C.

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
March 14th, 1862.

SIR:—

I inclose a requisition of Surgeon Chas. H. Laub, U. S. Army Medical Purveyor in this city, for five hundred yards of your adhesive plaster, in cases of five yards each. Send it on as soon as practicable.

Very respectfully,

Your obedt. servt.,

By order.

(Signed)

L. A. EDWARDS,

Surgeon U. S. Army.

MR. CHAS. SHIVERS, Apothecary,

Corner Seventh and Spruce Streets, Philadelphia.

Such was the usage before my appointment. The language of the law under which I came into office is, "that the Medical Purveyors shall be charged, *under the direction of the Surgeon-General*, with the selection and purchase of all medical supplies." These words were certainly intended by Congress to give power to Purveyors which they did not possess before, when medical supplies were often purchased by officers of the Quartermaster's Department and others. They take no power from the Surgeon-General. They do not say that he shall not purchase or direct purchases. I gave this construction to the act, and in a communication made to the Secretary of War stated it as follows:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY,
August 25th, 1862.

SIR:—

* * * * *

"Neither do I see any good reason why the Medical Department should not be charged as well with the construction of dispensing wagons as with the manufacture of medicine chests, litters, stretchers, mess chests, and other hospital appliances which now form important items in the expenditures of the Medical and Hospital Department. The division of labor does not work efficiently, and evidently was not contemplated. Section 5th of the act approved April 16th, 1862, expressly provides 'that Medical Purveyors shall be charged, under the direction of the Surgeon-General, with the selection and purchase of all medical supplies, including new standard preparations, and of all books, instruments, hospital stores, furniture, and other articles required for the sick and wounded of the army.'"

The Secretary of War knew perfectly well that I directed purchases to be made of particular persons, and he also knew that I made purchases myself. He knew this from the first; and in an official letter written to him from my office over seven months before my court was ordered, this fact is stated to him in direct terms. It is in answer to one from him relative to the amount of liquor which had been purchased in the previous ninety days, and by whom:—

SURGEON-GENERAL'S OFFICE, WASHINGTON, D. C.,
June 5th, 1863.

SIR:—

* * * * * "No one person makes the purchases of liquors for the Medical Department, which are made at different points throughout the country by the Medical Purveyors, or by orders direct from this office to the dealers.

Very respectfully, your obedt. servt.,

J. R. SMITH,

Acting Surgeon-General.

HON. E. M. STANTON,

Secretary of War.

Now, if I was violating the law, was it not the bounden duty of the Secretary of War to stop me? Why did he allow me to go on and order purchases after he was thus officially informed of my action? Simply because he did not regard my conduct as being in opposition to law; and the best proof of this is that my successor was allowed by him to continue to construe the act of Congress as I had construed it. It was only when he was in search of offenses to impute to me that he hit upon the idea of limiting the power of the Surgeon-General, and of taking the ground that the latter should not say of whom or where purchases should or should not be made. The following letters will show that, up to the 13th of January, 1864, only three days before I was placed in arrest, and certainly several days after the charges against me were prepared, the course which I had adopted was continued:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
December 27th, 1863.

SIR:—

In reply to your communication of the 24th instant, I am directed to inform you that the medicine wagons required by Surgeon Fletcher have been ordered from Medical Storekeeper Rittenhouse.

The Acting Surgeon-General desires that those of Dunton's pattern, now in your hands, be filled at the U. S. Laboratory, and sent to Medical Storekeeper Rittenhouse, when required for issue. *He directs that no more be purchased either from Dunton or Perot & Co.*

By order of the Acting Surgeon-General.

Very respectfully, your obedt. servt.,

C. H. CRANE,

Surgeon U. S. Army.

SURGEON A. MURRAY, U. S. A.,

Medical Purveyor, Philadelphia.

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
January 13th, 1864.

HENRY JOHNSON,
Medical Storekeeper, U. S. A., Washington.

SIR :—

I am instructed to acknowledge the receipt of your letter of the 11th instant, inclosing special requisitions for medical and hospital supplies, and to inform you that they have been approved and sent to the *Medical Purveyor at Philadelphia for issue, with the exception of the 2000 bottles of ink, (2-oz. bottles,) which you will purchase in this city.*

By order of the Acting Surgeon-General.

Very respectfully, your obedt. servt.,

W. C. SPENCER,

Assistant Surgeon U. S. Army.

Now, if it be alleged that the law did not prohibit my predecessor from giving specific directions as to where and of whom purchases should be made, but that the present law does, I ask why such a construction was not enforced by the Secretary of War on my successor? Is it not perfectly plain that he never really believed I had violated law, but made use of my acts solely as a subterfuge, to enable him to destroy me?

The original order to Dr. Cox not to make purchases was given by my predecessor. It was reiterated by me December 1st, 1862, as follows:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
December 1st, 1862.

SURGEON C. C. COX, U. S. Vols.,
Medical Purveyor, Baltimore, Md.

SIR :—

Your communication of the twenty-first of November, asking instructions in regard to issue of certain books marked in italics in the supply table, has been received. In reply, I am instructed to inform you that paragraph 10 of the supply table will be strictly adhered to, and requisitions for the articles referred to should be sent to this office for approval. I am also instructed to say that the purchase of Worcester's Dictionary, McLeod's Surgery, and the books of that class was unauthorized, and will not be observed. The Surgeon-General directs you not to make any more purchases unless under special instructions from this office.

By order of the Surgeon-General.

Very respectfully,

C. H. ALDEN,

Assistant Surgeon U. S. Army.

On the 30th of May, 1863, the following letter was written to Dr. Cox :—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
May 30th, 1863.

DOCTOR :—

The Surgeon-General directs me to inform you that, in view of the high prices charged in Baltimore for articles furnished the Medical Department, and in consideration of the fact that Baltimore affords but a poor market in

comparison with New York and Philadelphia, that no more purchases be made by you in that city, without special instructions from this office.

Very respectfully,
Your obedt. servt.,

E. S. DUNSTER,
Assistant Surgeon U. S. A.

SURGEON C. C. COX, U. S. Vols.,
Medical Purveyor, Baltimore, Md.

This letter was written because one of the chief clerks in the office brought Dr. Cox's bill to me and complained of the high prices charged. Dr. J. R. Smith, U. S. Army, who was at the time my chief assistant, swore before the court that the prices of some of the drugs were to his knowledge higher in Baltimore than in the cities above mentioned; and such is the case with most of the articles.

But this prohibition was continued after I was relieved from the charge of the bureau, and Dr. Cox, still desirous of being allowed to purchase, was replied to as follows by order of Dr. Barnes:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
September 18th, 1863.

SIR:—

The Acting Surgeon-General instructs me, in reply to your communication of the 17th instant, asking permission to purchase ceratum adipis, etc., the receipt of which is acknowledged, to state that the cerate and alcohol have been ordered to be sent to you from Philadelphia, and that Surgeon R. Murray, U. S. Army, has probably sent the articles in question, or made his arrangements to do so; and that therefore it is deemed advisable not to have them purchased in Baltimore. The chairs you are authorized to purchase.

By order of the [Acting?] Surgeon-General.

Very respectfully,

Your obedt. servt.,

E. T. WHITTINGHAM,
Assistant Surgeon U. S. A.

SURGEON C. C. COX, U. S. Vols.,
Medical Purveyor, Baltimore, Md.

And again:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
September 26th, 1863.

SIR:—

Your requisition of the 25th instant, asking for spirit frumenti, [whisky,] etc., is approved, with the exception of the brandy, which is no longer issued. Your suggestion with reference to having the above articles issued in kegs, demijohns, and cans, is not approved.

The supplies will be issued and forwarded to you from New York City.

By order of the [Acting?] Surgeon-General.

Very respectfully, etc.,

E. T. WHITTINGHAM,
Assistant Surgeon U. S. A.

SURGEON C. C. COX, U. S. Vols.,
Medical Purveyor, Baltimore, Md.

These letters were rejected as evidence by the court-martial; and the court also refused to allow me to prove that my predecessor had given like orders; although they show conclusively that even after my relief from duty, which was on the 30th of August, 1863, the Secretary of War had not construed the law as he directed it to be construed by the prosecution in my case.

Even this is not all, for, in the fall of 1862, he gave me verbal orders to prohibit all purchases in Philadelphia. This was done with the effect of causing a great deal of ill feeling, as a reference to the newspapers of that period will make manifest. Nothing was allowed to be bought there without his special order, as the following indorsement on a requisition for hay for packing, iron wire, chairs, and tables will show:—

Respectfully referred to the Secretary of War, with the request that authority may be given to make these purchases and such minor ones as may be absolutely necessary.

SURGEON-GENERAL'S OFFICE, }
November 25, 1862. }

Approved.
E. M. STANTON,
Secretary of War.

WILLIAM A. HAMMOND,
Surgeon-General.

Thus it is seen that, six months before my order to Dr. Cox, Mr. Stanton had given similar orders as regarded Philadelphia!

And now, was my order to Dr. Cox justifiable?

It was known that the prices of some articles at least were higher in Baltimore than at New York or Philadelphia.

I quote from the record, page 104. Dr. Cox, a witness for the prosecution, is on cross-examination:—

“Question. Are there any chemical manufactories in Baltimore at which the more important articles, such as quinine, morphia, acids, chloroform, ether, etc., are made?

“Answer. There are none in which they are manufactured to any extent. There are chemists of sufficient character to manufacture all these things, druggists who are chemists; but they are not manufactured there to any extent that I am aware of.

“Q. From whom had you made your largest purchases of drugs previous to my order of May 30th, 1863?

“A. The largest purchases of drugs were made of Leary & Co.

“Q. Did you not at times find it difficult to obtain all the medicines you required in Baltimore, and did not the dealers have to send elsewhere for them?

“A. The great bulk of medicines I could get in Baltimore; but the fine preparations of medicines had to be sent to Philadelphia for.

“Q. Was my order of the 30th of May the first order you received not to purchase in Baltimore?

“A. It was not.”

The attempt was then made to show that my predecessor gave similar orders, which the Judge Advocate objected to, and the court sustained his objection.

After arguments and other questions, the record is as follows:—

“Q. Do you or do you not know that Government laboratories had been established at New York and Philadelphia, prior to my order of May 30th, 1863, and subsequent to my appointment as Surgeon-General, at which the greater quantity of medicines issued to the army were manufactured?”

“A. I know there were laboratories in those cities under the direction of the Surgeon-General, but I cannot say when they were opened, whether before or after that period.

“Q. You have stated that some articles were higher and some lower in Baltimore than in New York or Philadelphia. What articles were lower?”

“A. I cannot answer that question without referring to papers.

“Q. Were you not authorized, subsequent to my order of May 30th, to purchase many articles in Baltimore which it was thought could be obtained there to advantage?”

“A. Yes, sir.”

And then, in reference to permanganate of potash, the best known disinfectant and deodorizer, which it was alleged by the Judge Advocate I had, in violation of my duty, directed to be sent to Dr. Cox from Philadelphia:—

“Q. Is permanganate of potash manufactured in Baltimore, and could you have obtained it there?”

“A. It is not manufactured there to any extent that I am aware of.

“Q. Is it manufactured there at all?”

“A. I am not aware that it is.

“Q. Was it not required for use at the battle-field of Gettysburg?”

“A. It was, sir.

“Q. Is it or is it not a highly useful article in medical supplies?”

“A. A very valuable article, sir.”

In reference to the fact of which Dr. Cox appears to be ignorant, but which, of course, I, from my position as head of the corps, was fully aware of, that before the thirtieth of May, the laboratory at Philadelphia was in operation, the testimony of Prof. Maisch, the chief chemist of that institution, is adduced.

At page 1673 of the record:—

“Q. Can you state at what time the laboratory you have spoken of as having been established in Philadelphia went into operation?”

“A. We commenced operations, and by this I mean we commenced the preparation of pharmaceutical preparations and chemical preparations, in the middle of April, 1863.”

And at page 1674:—

“Q. When were you prepared to deliver the articles manufactured by you at the laboratory?”

“The Judge Advocate objected to the question as irrelevant.

“The court was cleared for deliberation.

“The court was opened.

“The Judge Advocate announced that the court overruled the objection.

“A. We were prepared to deliver such articles as were manufactured about the first week in May, 1863.”

Here, then, were the reasons which induced me, on the thirtieth of May, to prohibit Dr. Cox purchasing in Baltimore without special authority from my office:—

1st. The high prices.

2d. The insufficiency of the market.

3d. The fact that the laboratory of the Medical Department in Philadelphia was in full operation, and competent to supply the drugs needed.

And now in reference to the justification for the order set forth in the first specification to purchase blankets of W. A. Stephens.

On the 10th of July, 1862, the following letter was written to Dr. Cox by my order:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
July 10th, 1862.

SIR:—

I am instructed by the Surgeon-General to direct you to purchase 5000 blankets from Mr. W. A. Stephens, No. 116 Nassau Street, New York. The blankets to be according to samples sent by him to this office.

By order.

Very respectfully,

Your obedt. servt.,

J. R. SMITH,

Assistant Surgeon U. S. A.

BRIG. SURGEON C. C. COX,
Medical Purveyor, Baltimore, Md.

On the seventeenth the inquiry was made of him why he had not obeyed the order. On the nineteenth he replied that he had obeyed it on the fourteenth, being before absent from Baltimore.

Dr. Cox testified as follows for the prosecution, (p. 39):—

“Q. [By Judge Advocate.] State whether you had, previous to this letter of July tenth, any knowledge of Wm. A. Stephens.

“A. None at all.

“Q. Had you had any communication with him before that time?

“A. None whatever.

“Q. I will repeat. State whether in any way, either by telegraph, by written correspondence, or by oral communication, you had any communication with W. A. Stephens previous to the telegram from the Surgeon-General to which he refers in the letter of the tenth of July.”

(I will here state that no reference is made in my letter of the tenth of July to any telegram. In my letter of the seventeenth it is mentioned that a telegram had been sent to Dr. Cox on the tenth, but as no such telegram is of record, and Dr. Cox could not swear that he ever had received such, it is clearly a mistake for *letter* of the tenth.)

“A. No, sir; none.

“Q. Had you any personal knowledge of the man at all?

“A. None at all.”

One would think, from this examination, that the Judge Advocate had succeeded in proving, beyond all doubt, that Dr. Cox knew nothing of Stephens prior to the 10th of July, 1862; had never corresponded with him in any way; had never even heard that there was such a man. Alas! for the fallibility of human evidence! A letter from Mr. Stephens to Dr. Cox is produced by the latter, dated the 10th of July, 1862, in which the writer says:—

“On the third, in Philadelphia, I received your telegram to supply you with 5000 blankets, and immediately forwarded the order to my agent, and on the fourth I received another countermanding the order.”

In reference to this, the Judge Advocate further questions Dr. Cox, (p. 40):—

“Q. You have stated in your letter, which has been given in evidence, that you addressed W. A. Stephens on the fourteenth instant; look at this letter of July eleventh, produced by you, and state whether there was any further communication between you and him before that. I ask for your own knowledge.

“A. Yes, I must have telegraphed him.

“Q. Do you keep a record of your telegrams in your books?

“A. We generally do. I do not find that telegram. I recollect having telegraphed to him.

“Q. Do you recollect having telegraphed to this man before July 10th, 1862?

“A. I am distinct in my recollection of having telegraphed him previous to the letter of July tenth.

“Q. State how you came to telegraph him previous to the letter of the tenth. How did you know who he was or where he was previous to July 10th, 1862, if you did not know the man?

“A. I only telegraphed upon information of his locality in Philadelphia. I cannot speak definitely in regard to that. I am rather under the impression that I perhaps received an oral direction from the Surgeon-General in Baltimore or elsewhere, to send for those blankets. I cannot speak positively on that subject. I am very distinct in my recollection of having telegraphed to Stephens prior to the tenth, and subsequently telegraphed to him, probably the next day, not to send them just at that time.”

Now, here we have Dr. Cox swearing first, in the most positive manner, that he knew nothing of Stephens prior to July tenth, and then being “very distinct” in his recollection of having sent him two telegrams before that period! And yet on page 1139 of the record, when he is recalled by the Judge Advocate to prove that Stephens had alluded to a telegram of the 3d of July, 1862, which Dr. Cox had never sent, the latter says:—

“There are other circumstances to which I would like to allude in that connection. I had no communication with the Surgeon-General previous to the fourth of July. I am perfectly satisfied that I did not telegraph Stephens on the third. That is my best recollection and belief.”

At page 1136 Dr. Cox, in answer to a question of the Judge Advocate, admits that on the fourth of July he telegraphed Mr. Stephens as follows:—

“If the blankets have not been procured, do not send them; we are supplied.”

Who ordered the blankets which were not to be forwarded? The Judge Advocate would like to have it inferred that I did, for Dr. Cox, in opposition to his previous evidence, swears he did not.

Fortunately we can have no doubt on that point, for we have the telegram sent by Dr. Cox to Mr. Stephens on the 3d of July, 1862, as furnished to Dr. Cox by the telegraph operator. On page 2167 of the record it is stated as follows:—

“Surgeon C. C. Cox was recalled by the accused, and testified further as follows:—

“Q. State whether or not, since you were on the stand before, you have made search for a telegram from your office to Wm. A. Stephens, of July 3d, 1862, and whether you have found it, and if so, please to produce it.

“A. Since I was last on the stand I have made search for the original telegram in the office, and did not succeed in finding it.

“Q. State whether you have any copy of such telegram.

“A. Prior to that I telegraphed to my clerk in Baltimore to have the office searched, and he took copies of telegrams then in the office, of the third and fourth of July, which copies I have with me. Since then, upon application for the original telegram, it was not to be found in the office; but the copies I have.

“Q. Is the original telegram of the third in existence, to your knowledge?

“A. Not to my knowledge. I never saw it.

“Q. Please to produce the copy of the telegram of the third.

“A. That was taken from the copy; it is a duplicate of the copy in my office.”

The witness here produces the telegram:—

“BALTIMORE, July 3d, 1862.

“To Mr. STEVENS, 1120 Girard St.

“Care of Mr. BONSALL, Philadelphia.

“Send on immediately to this Department five thousand (5000) blankets, and charge

“CHRIS. C. COX,

“Surg. U. S., Med. Purveyor.”

On the back of the paper is this certificate:—

“WASHINGTON, March 4th.

“I certify the telegram on this sheet to be a copy of the original message sent from Baltimore to Philadelphia, as repeated to this office.

“WM. H. CLARKE,

“Telegraph Operator.”

This certificate is crossed out by three diagonal lines.

The Judge Advocate objected to the admission of this telegram as evidence, and the court sustained his objection!

At page 1583 of the record will be found the following. Mr. W. A. Stephens, a witness for the defense, is under examination:—

“Q. Do you recollect any sale of blankets made by you to Dr. Cox in July, 1862?”

“A. I do.

“Q. State whether you received a telegram from Dr. Cox July third.

“A. I did receive a telegram from Dr. Cox on the afternoon of the third of July, about five o'clock.

“Q. Have you that telegram, or a copy of it here? If so, please produce it.

“A. I have it here.”

[The witness here produced a copy of the telegram as obtained by him from the Baltimore office, where it is on record. The original, received by him, had been sent to his agent in New York, and was not to be found.]

No reasonable person can doubt that Dr. Cox ordered 5000 blankets from Mr. Stephens, by telegraph, on July third. The matter is of record both in the Baltimore and Philadelphia offices. Why, however, it may be asked, could not the original message, as written by Dr. Cox, be produced? To this I would answer, that diligent search was made by the defense for the original, and it was ascertained that all the original telegraphic messages of that date had been sent to the War Department. It was asked, that search might be made at the War Department, and it was answered that no such telegram could be found. As appears from the evidence of Surgeon Cox, (page 2176 of the record,) the original of this telegram of the 3d of July, 1862, was in the telegraph office at Baltimore on the 3d of March, 1864. He answers to a question of the accused as follows:—

“Q. State at what time it was that your clerk made the former search and found both the telegrams of the 3d and 4th there.

“A. You have a telegram here from my clerk on your record. If I can look at that it will refresh my memory as to time. [The telegram on page 1137 of the record is here submitted to the witness.]

“That is dated March 3d. I telegraphed about that time from here to my clerk to have the search made for these papers, and he returned me in answer the telegram which is on page 1137. When I returned to Baltimore, I was informed that the other telegram had been found, and they had taken a copy of it from the office.”

And at page 2178:—

“Q. Can you bring to the court the copy of the original telegram, which I understand you to say cannot now be found, the copy of the original telegram July 3d, from which the paper you have handed the court this morning was made?

“A. I can; it is in my office; it is identical with that duplicate.”

Some one, then, between the third of March and the eighteenth of April, had taken the original telegram from the office of the

company, and the following letter of Mr. Mattingly, Manager of the American Telegraph Company's Office in Baltimore, explains the whole matter:—

BALTIMORE, July 29th, 1864.

W. A. STEPHENS, Esq.

DEAR SIR:—

When you called from Washington for a copy of the telegram referred to, we did not at the time notice that the copy we had was not the original. We sent you a copy of the message we had on our files, which was a copy from the original as received from the telegraph office at headquarters. When I was called upon by the court to come to Washington and bring with me the original message, I discovered that we did not have it, and that it had never been in this office, but that it had been received by telegraph from the office at headquarters and forwarded from here. When I found this to be the case, I went to the above office, and there learned that all the original telegrams had been forwarded to Washington. I then went to Washington and made application for it, and was informed by Major J. J. Eckert, that all messages of that and previous dates had been destroyed. The above statement I made to the court, and now make it to you. The certificate was made at the dictation of Dr. Cox.

Respectfully yours,

(Signed)

J. F. MATTINGLY.

Thus, it is seen that, through the action of those in authority, an important link in my chain of evidence was destroyed; and through the decision of the court, I was not allowed to prove that the blankets specified had been ordered by Dr. Cox seven days before I directed him to receive them.

At page 2170, the record reads as follows. Dr. Cox is under examination for the defense:—

"Q. Do you remember having made examination and search in the City of Baltimore, about the 2d of July, 1862, for blankets to be sent to Fortress Monroe?

"A. I remember having made search in Baltimore for blankets, for a quantity of blankets, *and not being able to find them*; and my impression is they were to be sent to Fortress Monroe, but I cannot speak distinctly; *I have no order on file about them.*

"Q. Do you recollect whether you procured them, or offered to procure them, outside of the City of Baltimore?

"A. I did.

"Q. What did you do?

"A. I sent an agent to New York, and other cities, for the purpose of getting the blankets.

"Q. Do you recollect whether you telegraphed to the Surgeon-General in connection with that matter?

"A. I have no distinct recollection of any of these things; I presume that telegram came from me, because it recites facts which did occur."

The following telegram is then offered and accepted as evidence:—

Received, July 2d, 1862, from Baltimore: 5.05 P.M.

TO SURGEON-GENERAL HAMMOND.

I have been through the city and can get no more blankets here. Have dispatched an agent to New York, who will have several thousand here in

time for to-morrow night's boat. Such mattresses and pillows as can be got, will go on to-night. The balance to-morrow.

CHRIS. C. COX, Surgeon U. S. Vols.,
Medical Purveyor.

Not getting the blankets as he expected, Dr. Cox, on the third, telegraphed to Mr. Stephens to send them. How he knew of Mr. Stephens is not developed. He swears that he is distinct in his recollection that he had no communication with me in regard to him prior to July fourth. He probably heard in some way that Mr. Stephens had already supplied blankets to the Medical Department, and at once availed himself of his (Mr. S.'s) agency. On the fourth of July, he telegraphs Mr. Stephens not to send the blankets, as he is supplied. On page 2303 of the record, he says, in answer to the

Question. State whether you informed the Surgeon-General that you procured these blankets, for which you had sent an agent to New York.

A. To the best of my recollection I did not."

When I returned to Washington from Fortress Monroe and Harrison's Landing, which was on the seventh or eighth, I found a letter from Mr. Stephens, stating that Dr. Cox had ordered 5000 blankets of him, and had subsequently countermanded the order, by which action, he (Mr. Stephens) had been placed in a false position. At the same time he sent samples of the blankets to my office. I then wrote to Dr. Cox to purchase the blankets according to those samples. I supposed, of course, that he had arranged in regard to terms when he had originally ordered them. The sample blankets were of excellent quality. I felt that it was no more than right that Dr. Cox should fulfill his engagements, and did not know that he had been supplied. Had he so informed me, I should not have insisted on the order.

In regard to the quality of those blankets and the necessity for the purchase, I quote as follows from the record. Dr. Cox is being cross-examined by the defense:—

Q. What was the character of the blankets purchased of W. A. Stephens or Townsend, and how did they compare in quality or prices with those that you purchased?

A. They were excellent blankets. Quite as good, according to my judgment, as the blankets I had."

And on page 133:—

Q. State whether the transactions with Stephens referred to, were or were not in all respects advantageous to the public service.

"The Judge Advocate objected to the question, but subsequently withdrew his objection.

A. The blankets were certainly of advantage to the public service.

"Q. Are you able to state whether the price was a moderate and fair one with reference to the quality of the blankets?"

"A. I did not examine the articles minutely with a view to the character of the texture. My impression was that the blankets were of excellent quality, and I did not regard the price at that time as very high."

And on page 146, in answer to a question of the Judge Advocate, Dr. Cox says:—

"A. I judge from their appearance, and weight, and size, etc. They appeared to me to be an excellent blanket."

The certificate of Dr. Cox to the bill of Mr. Stephens is as follows:—

"I certify that the above account is correct, and that the articles were purchased and received by me, and were necessary for the public service.

(Signed)

"CHRIS C. COX,

"Surgeon U. S. V., and Medical Purveyor."

The bill to which this certificate is appended is dated August 9th, 1862. It was not paid till May 8th, 1863.

This concludes all I have to say relative to the 1st and 2d specifications of the 1st charge, though there are several other points which might be considered with advantage. In the quotations and remarks I have made relative to Dr. Cox's evidence, I do not wish to be understood as imputing to him the least desire to misrepresent facts. I have only brought forward his manifest contradictions, for the purpose of showing how liable we all are to err, and how careful a court should be in its consideration of evidence presenting many fallible points.

In regard to the 3d specification, I deny that I ever ordered Dr. Cooper to purchase the blankets referred to. Dr. Cooper swore that I gave him a verbal order to this effect. No other testimony was offered by the prosecution on the point.

For the defense, Mr. Stephens testified as follows in reference to these blankets, page 1568 of the record:—

"Q. Do you recollect the sale of a lot of blankets made by you to Surgeon Cooper in the latter part of May, 1862?"

"A. Perfectly well.

"Q. Did you have any communication, directly or indirectly, with the Surgeon-General relative to the sale of those blankets—the Hess, Kessel & Co. blankets—to Dr. Cooper?"

"A. None whatever.

"Q. State whether you recollect having seen Dr. Cooper in the store of Wyeth & Brother on the evening before the day of that sale.

"A. I did. That was my second interview with him.

"Q. State whether Dr. Cooper said anything to you that evening or not; and if you recollect, state what he did say.

"The Judge Advocate objected to the question, but the court overruled the objection.

"A. He told me to come down to his office the next day—the next morning.

"Q. State whether you did or not go to the office of Dr. Cooper the next morning, and what passed at that interview.

"A. I did go to the office, and Dr. Cooper was alone. He said to me, shutting the door, 'Stephens, come take a cigar, and we'll put this thing through all right.' With a wink of his eye, and a drawn-down inclination of his head to the left, in this kind of a way, [the witness here illustrates by gestures.] I responded by handing him the schedule of prices—the list of my goods. He remarked to me that there was cotton in the goods. To which I replied: 'Certainly, they were cotton-warp blankets.' He made no further remark to me; didn't object to the prices; he looked over the schedule, and said, 'I'll buy them; send 'em along.'

"Q. Did Dr. Cooper, in that interview, tell you that he had been directed to purchase those blankets from you?

"The Judge Advocate objected to the question, but he was overruled.

"A. He never said a word about it. He never used the name of Dr. Hammond in the interview."

The question is not altogether one of veracity between Dr. Cooper and Mr. Stephens, for there is strong presumptive evidence that no such order was ever given. Is it at all probable that so experienced an officer as Dr. Cooper would purchase blankets, which he knew to be of inferior quality, on a mere verbal order? Would he not have said to me, "Give the order in writing, and I will of course obey it?" And, even when it is reduced to a question of credibility, no unprejudiced person who knows Dr. Cooper, who knows his animus toward me, and who, upon reading the record, discovers the many points upon which he contradicts himself and is contradicted by others, can doubt who spoke falsely. On the other hand, Mr. Stephens' evidence is uncontradicted by any witness but Cooper.

In regard to the quality of these blankets, Dr. Cooper swore that they were an assorted lot and of high price. Thus, at page 198, he says, alluding to the alleged order from me:—

"Nothing at all was said to the Surgeon-General or in his presence, so far as I recollect, regarding the particular prices of the different qualities of blankets.

"Q. Only what you have stated already, that they were too high-priced.

"A. Yes."

And on page 389, when he is cross-examined by the defense, he swears as follows, when referring to the interview at which he alleges I ordered him to purchase these blankets:—

"Q. What reason did you assign for not buying them?

"A. I did not like them.

"Q. Did you assign any other reason?

"A. That was the only thing I said to him.

"Q. Did you assign as a reason, at that time, the quality or price of the blankets?

"A. Not to him.

"Q. Did you in that conversation?

"A. To whom.

"Q. To any one?

"A. I did say on that evening to the Surgeon-General that I did not like the blankets, that they were not the kind I was purchasing, and that they were comparatively dear."

And at page 392:—

"Q. Was your objection to the quality of the blankets, or to their size or price?

"A. It was to their not being of the kind I was using, and to their being comparatively dearer than what I could purchase."

Now this is all the testimony adduced by the prosecution relative to the quality of these blankets, and yet, in the face of the admissions of Dr. Cooper that he had not represented to me that the blankets were of bad quality, the court-martial found me guilty, not only of ordering Dr. Cooper to procure them, but also that I knew at the time that the blankets were of inferior quality.

Dr. Cooper, when he gave his evidence on this subject, appears to have forgotten the certificate which he had signed soon after the purchase, and which I put in evidence before the court. It is attached to the bill, which is dated New York, May 31st, 1862:

"I hereby certify that the above account is correct and just, that the articles charged for have been furnished, and that the prices were those customary at that place.

GEO. E. COOPER,

"Surgeon U. S. A."

What can we think of a man who, by his evidence, as just given, is seen to have falsified his own certificate? and thus to have rendered himself, by his own admission, guilty of conduct which, by the rules and articles of war, is punished by cashiering? And what can we think of the majority of a court who, with the proofs of this witness's falsehood thus before them, could find me guilty of the 3d specification?

The 4th specification alleges that I unlawfully, and with intent to aid W. A. Stephens to defraud the Government of the United States, directed Dr. Cooper to purchase blankets of him. And the 5th specification alleges that, corruptly and with a like intent, I gave Mr. Stephens an order in writing to turn over eight thousand pairs of blankets to Dr. Cooper. That I ordered Dr. Cooper to buy blankets of Mr. Stephens, is true; that I did so unlawfully, I do not believe; that I did so with intent to aid in a fraud, is false; and I gave no such order as that charged in the 5th specification.

The facts are as follows:—

Some time about the 10th of June, 1862, Mr. Stephens wrote me that he had a lot of blankets which he could sell at \$5 per pair. On the 13th of June, in obedience to orders from the Secre-

tary of War, I had telegraphed as follows to the Medical Director. I knew, therefore, that blankets would be needed:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
June 13th, 1862.

Telegraphic (Confidential.)

Prepare additional accommodations for five thousand men within five days. Confer with the Quartermaster in regard to buildings, and with Surgeon Cooper in regard to supplies.

W. A. HAMMOND,
Surgeon-General U. S. A.

SURGEON W. S. KING, *U. S. A., Medical Director,*
422 Walnut Street, Philadelphia

On the 14th, I received a sample of Mr. Stephens' blankets. I examined them carefully, and considered them worth that price. Dr. Laub also examined them, (of which fact he was oblivious before the court, but recollected an examination which, he said, was made of Mr. Stephens' blankets in July, but which did not take place,) and thought them worth the sum asked. On the same day, I wrote the letter set forth in the 4th specification, and inclosed a piece of the blanket, to which a card was attached. Dr. Cooper could not have received this letter before June 15th, 1862. On Monday, the 16th, he wrote me a letter of a private nature, and at the end of it said that Mr. Stephens had just been to his office, and was willing to take \$4.60 per pair for the blankets, but that he thought he could do still better, and asked me for additional instructions. I telegraphed him immediately as follows, (page 222 of the record):—

Dated WASHINGTON, June 17th, 1862.

To SURGEON G. E. COOPER,
No. 9 North Fifth Street.

Do as you see best about the blankets from Stephens.

WM. A. HAMMOND,
Surgeon-General.

One would think this sufficient to leave Dr. Cooper at entire liberty relative to his action; but, not content with the telegram, I wrote him a private letter as follows, (page 1328 of the record):

SURGEON-GENERAL'S OFFICE, WASHINGTON, D. C.,
June 17th, 1862.

DEAR DOCTOR:—

I telegraphed you to-day, immediately on receipt of your letter, to do as you thought best about Stephens' blankets. His offer to me was at \$5, and I thought the sample worth the money. I mentioned the price merely in order that you should not pay more than that sum for them. Are you sure that those he offers at \$4.60 are the same that he asked me \$5 for?

Whenever I send you orders to make particular purchases, it is, of course, with the full understanding on my part, that if you see any objections you will refer the matter back to me for further instructions, as in this case.

I do not know much about Stephens. He appears, however, to be a good

man. Hartshorne is responsible for him, and he says he is altogether reliable. I have never seen him but once in my life. *If you don't want his blankets, don't buy them at any price.* Laub thought them good, but I don't think he knows any more about such matters than I do.

How would you like to go to New York as Medical Purveyor? I can't get Satterlee to take a sufficiently large view of the present emergency. He is a good old fellow, but terribly slow. He does not seem to be able to comprehend the idea of an army of over 15,000 men, or an expenditure of over \$100,000 a year. Doubtless, as you say, you have your troubles; but yours are a drop in the bucket compared to mine. One thing I am determined upon—the sick shall be properly supplied, if it takes every dollar I can get hold of.

I hope you are getting ready for the wounded expected from the Peninsula. Don't spare any effort to be prepared. The Secretary is anxious about the matter, as I judge from his manner.

I hope you will like Hobart. He is a good boy, perfectly truthful and reliable. He is perhaps a little slow, and I must ask you to bear with him in this respect till he has learned his duties.

I will try and come on soon. Let me know when you want any assistance that I can give you.

Yours sincerely,

WILLIAM A. HAMMOND.

SURGEON GEORGE E. COOPER,

Philadelphia.

[Indorsed in pencil.]

Received, Med. Purveyor's Office, Philada., Pa., June 18th, 1862.

A former hospital steward of Dr. Cooper's, who had served with him some time, and every clerk who had been on duty in his office, swore that the above indorsement was in Dr. Cooper's handwriting. One of them testified that he had seen the letter in Dr. Cooper's possession, and Dr. Cooper himself, after swearing that he could not say positively whether he had received it or not, admitted that it was familiar to him. Subsequently, in presence of the reporter of the court, Mr. Hitt, he remembered that he could write just like that, and then wrote the words of the indorsement; and at a still later day he declared that the letter had been taken from his office. The court, after once rejecting the letter, accepted it, and it was admitted in evidence. How it came into the possession of my counsel will appear hereafter.

Now, after the reception of the telegram and this letter, can any one doubt the perfect freedom of Dr. Cooper in regard to the purchase of Mr. Stephens' blankets? And how could the majority of a court-martial dare so to violate their oaths as to find me guilty of aiding in a fraud? Dr. Cooper said in evidence that I had taken the matter out of his hands by writing the order to Mr. Stephens, set forth in the 5th specification. But Mr. Stephens testified positively that no such order was given him, and that my letter to him simply contained these words: "Call on Dr. Cooper, and he will purchase your blankets." Moreover, assuming that I had given such an order as is alleged, the telegram of the seventeenth and the letter of the same date are both subsequent to the date of the supposed order, and should have been

regarded by Dr. Cooper as leaving him at full liberty. All responsibility for the purchase rests with him; for the blankets were not received till the twenty-first, and were not paid for till long afterwards. Up to the time of receipt and inspection, Dr. Cooper retained the full right to do as he pleased in the matter—a right which is always exercised by every purchasing officer of the United States.

And now, to point out a few of the falsehoods to which Dr. Cooper testified before the court-martial. He swore positively that he wrote me no letter of date June 16th, 1862, relative to these blankets. The telegram and my letter of the seventeenth show that he did. He said that on Monday, the fifteenth, he wrote a letter to me, and he presented a copy of it to the court. It is as follows:—

PHILADELPHIA, PENNA., June 15th, 1862.

DEAR HAMMOND:—

I am just in receipt of an order directing me to purchase 8000 pairs of blankets of Stephens, of the variety Fair.

I refused to purchase them of him because of quality. I can get a better article at a less price.

If you wish to compensate him for services rendered you in your campaign for the surgeon-generalship, the 3000 pairs you directed me to purchase from him some weeks since are enough, and these 8000 pairs would be crowding the mourners off the anxious seats.

Think well of this, and answer me immediately by telegraph if possible.

Yours,

COOPER.

This letter was never written to me by Dr. Cooper. He would not have dared to offer me so gross an insult as this letter contains. It bears internal evidence of its falsehood. He swore that he took a copy of it, which he put in his desk, and mailed the original himself. No one ever saw this copy, although Captain Elliott, of the Subsistence Department, who was at the time one of his clerks, had daily access to all his papers, and frequently arranged them. The copy which he presented to the court was written, as he swore, in his office. The paper is of a peculiar quality, thin, blue, and wide ruled. Not one of his clerks had ever seen such paper in his office, and not one of his letters to the Surgeon-General's office (and there are over a hundred) were written on such paper. I made affidavit before the court that I never had received the letter.

In my letter of the seventeenth to Dr. Cooper I refer to a statement by him that Stephens had offered him the blankets at \$4.60. *No such statement is made by Dr. Cooper in this false letter of the fifteenth.* I also say that I telegraphed immediately on receipt of his letter. A letter written by him on the fifteenth, and mailed, as he swore, at half-past four o'clock P.M., would have been in my office on the morning of the sixteenth. Moreover, can it be supposed that if he had written me so infamous a letter as the

one referred to, I would have answered him in the terms of my letter of the seventeenth? The whole thing is preposterous. He never wrote that letter, but he did write one of the sixteenth, to which I have already referred, and which I received on the seventeenth. He swore he did not, and my telegram and letter of the seventeenth show that he did. The letter of the 15th of June was got up about the middle of November, 1862, and was exhibited in Washington, as I have learned, by a corn doctor named Zacharie, who made many threats of vengeance because I had refused to give my sanction to his entrance into the army, although he was supported by the President and other prominent politicians.

Dr. Cooper repeatedly swore that the blankets were of bad quality and high price. His testimony is refuted by numerous witnesses, and the words "*which blankets were unfit for hospital use*" were disproved in the opinion even of the court. It is not, therefore, necessary to quote from the record any portion of the voluminous evidence relative to the good quality of these blankets. In regard, however, to the alleged high price and deficient weight, there is conclusive evidence against the prosecution. Thus it is shown that there was not more than one other lot like them, and that was at Watson's, the lot afterward purchased by Townsend; that the prices at cash sales were rapidly rising in the market; and we have the concurrent testimony of Messrs. Carville, Vail, and Spaulding, all blanket dealers, and of the several brokers engaged in the transaction, that the sale to the Government at \$4.60 per pair, at the time, upon the terms at which it (the Government) was in the market, was a fair sale. Mr. Spaulding, a witness for the defense, and one of the firm of Spaulding, Vail, Hunt & Co., of whom the blankets were bought, says:—

"Q. State the character and quality of these blankets.

"A. The character and quality of these blankets was a white Union Mackinaw blanket of what would be called fair quality, neither the best nor the poorest, but what is called a good quality. The weight was eight pounds." (Page 1371.)

The prosecution tried to prove a fraud in the weight, but Mr. Spaulding produced his papers, and testified as follows relative to these blankets:—

"They came in several vessels—there might have been seven or eight vessels that they came by—and from each invoice one or more, sometimes five or six bales, went to the custom-house for examination and verification: thereupon it is the habit of the custom-house to amend the duties. If they fall short, they deduct the pound weight: if they overrun, they add it. I had occasion to look at my check-books, and the amended duties were 608 pounds overweight, which we paid duty for above the eight pounds for which they were entered at the custom-house. I find by my memorandum that there was \$36.48 excess of weight, which, at six cents per pound, is 608 pounds overweight in the whole invoice of seventy odd bales."

We see, therefore, and the same point is proven by Mr. Vail, another member of the firm, that there was no fraud in the weight of these blankets.

And again, as to the price:—

“Q. Do you know whether or not, soon after the sale by your house, that description of goods rose speedily in the market of New York?

“The Judge Advocate objected, but was overruled.

“A. It is a fact that they did rise very rapidly. The goods were sold below the market price.

“Question repeated.

“A. Yes; if I should answer as far as I could, I should say, at the time the blankets were sold, *it was a very low price for them*. I think it was in the neighborhood of the time of the battles on the Peninsula, and a great many blankets were wanted, a great many more than were in the market, *and they rose very rapidly; and I considered I made a very low sale at the time I did make it, because I wanted the money.*

“Q. Could you have afforded to have sold that lot of blankets to the Government upon the usual terms upon which the Government purchased goods at the price at which you did sell them to the parties named?

“The Judge Advocate objected, but was overruled. He desired his exception to be noted.

“A. I could not. If I were allowed to state my reasons I would like to. If the Government would have paid the money to me at the time I could have done so.” (Page 1374.)

Mr. Charles Carville, an importer of blankets, was examined for the defense:—

“Q. State whether, in June, 1862, there was or not a supply of that species of blanket [a sample of the lot sold by Stephens to the United States is here shown the witness] in the market of New York.

“A. I think the supply of this description of blankets was not very large at that time; white blankets.

“Q. State what would have been a fair price in the market for blankets of that description in the middle of June, 1862.

“A. About \$4.50 to \$5 per pair of eight pounds would be about the price.”

But this is not all. The bill for the blankets, as sold to the United States and as certified to by Dr. Cooper himself, was presented in evidence, as follows:—

NEW YORK, June 17th, 1862.

The United States

To William A. Stephens & Co.,

DR.

1862.

June 17. 77 bales White Mackinaw Blankets, 7677 pairs, (8 lbs. to the pair,) at \$4.60 \$35,314 20

Blanket wrappers to be paid for at \$2 per pair, or else returned.

\$35,314 20

I hereby certify that the above account is correct and just, that the articles charged for have been furnished, and that the price is that customary at this place.

(Signed)

GEO. E. COOPER,

Surgeon U. S. A.

Here is Dr. Cooper's own evidence to prove the justness of the account and the fairness of the price, written at a time when he had no enmity against me, and was not the tool of the Reeder commission and the Secretary of War. It is directly contrary in its tenor to the evidence he gave before the court, and never could have been written by a man who could have written the infamous letter which he says he wrote on the fifteenth of June, for it contradicts it too positively.

A letter was produced by the prosecution from Mr. Stephens to me, dated Philadelphia, June 13th, 1862, in which the following passage occurs:—

"I wrote you that the price of the blankets would be 62½ per pound, or \$5 per pair, but I have succeeded in making a better arrangement."

This letter never was received by me. It was produced by Surgeon Laub, a witness for the prosecution, who swore that he found it among his papers, and that he did not know how it came into his possession. Mr. Stephens testified that he put it into the lamp post box at Twelfth and Chestnut Streets, after the last collection on the thirteenth, consequently it did not leave Philadelphia till the morning of the fourteenth, and I could not possibly have had it when my order to Dr. Cooper was written. Although I objected to the admissibility of this letter as evidence, on the ground that it was not shown ever to have been in my possession, the court decided to receive it. This decision is of itself sufficient to show the bias of a majority of the court. I noted an exception to this ruling of the court, so contrary to every principle of the rules of evidence and of justice. In reference to this letter, Dr. Laub testified as follows, (page 941 of the record):—

"Q. (By Judge Advocate.) State when you first noticed this letter of June 13th, purporting to be written by Wm. A. Stephens, in your possession.

"A. The first time that I ever saw this letter, to my recollection, was three or four days since, when I was looking over my papers, to refresh my memory upon other points upon which I supposed I was to give evidence here, and I came across this letter among my papers.

"Q. State if you know how this letter came into your possession.

"A. I do not."

That the letter had been purloined before it came into my hands, and afterward placed among Dr. Laub's papers so that he could find it, is an almost irresistible conclusion. As will be shown hereafter, this was only a small theft compared with others of which I was the victim.

And now, in regard to any personal interest I had in any of Mr. Stephens' affairs. He swears that he had only seen me once in his life before any of these purchases, and that was when I stopped at his house, with Dr. Hartshorne, of Philadelphia, for a few minutes, on my way to the railway station, some six

months or more before I was appointed Surgeon-General, (page 1566;) that he never met me during these transactions, (page 1567;) that he had never advocated, in the newspaper which he then edited, my selection as Surgeon-General; "that there never was a line in it advocating him for the post," (page 1568;) and further, (page 1592):—

"Q. State whether, in any of your transactions with the Medical Department, the Surgeon-General had any personal interest, direct or indirect; whether he was to gain or lose anything by any one of them.

"A. *He had no interest whatever in any transaction of mine with the Medical Bureau; not one single cent.*

"Q. Was there at any time any understanding or agreement between you and himself, directly or indirectly, that you should render him a service in obtaining the appointment of Surgeon-General?

"The Judge Advocate objected to the question as irrelevant and incompetent, but the court overruled the objection.

"A. *None whatever. I never had any conversation with him on that subject; none, directly or indirectly.*"

This evidence of Mr. Stephens is uncontradicted by any witness. Indeed, no attempt was made by the prosecution to contradict it.

But, notwithstanding it was shown that by my telegram and letter of the seventeenth of June, I left Dr. Cooper at liberty to do as he saw fit; that I did not write the order set forth in the 5th specification; that the blankets bought were of full weight, fair price, and fit for hospital use; and that there was no fraud committed at all, the majority of the court decided that I had corruptly ordered Dr. Cooper to buy those blankets, and with the intent of aiding in a fraud upon the Government!

The 6th specification alleges that I ordered Dr. Cooper to lay in large quantities of supplies, for the purpose of aiding John Wyeth & Brother fraudulently to realize large gains thereon; and did order Dr. Cooper to purchase a large amount of such supplies from said John Wyeth & Brother; that this was done corruptly and with the full knowledge that I was acquainted with the fact that the supplies theretofore furnished by said dealers were inferior in quality, deficient in quantity, and excessive in price.

I admit that on the 31st day of July, 1862, I directed Dr. Cooper to fill up his storehouses, so as to have constantly on hand hospital supplies for two hundred thousand men for six months; and that I desired him not to issue said stores without orders from me. That I did this with any evil intent; that I ordered him to purchase any part of it from Wyeth & Brother; or that I knew this firm had previously furnished supplies which were "inferior in quality, deficient in quantity, and excessive in price," I deny.

The only orders I ever gave to the Messrs. Wyeth, were for beef extract and for oakum. I *approved* of Dr. Cooper making his purchases from them. He made the suggestion himself, as he

admits in his evidence, (page 189 of the record,) and I acceded to it. I had known them for many years; we had gone to school together; they were industrious, capable, and honest men. I have never learned the contrary, and till the contrary is shown, I shall continue to have faith in them. As was proved before the court, Dr. Cooper himself, several months before I was made Surgeon-General, and when he was Medical Director of Sherman's Expedition to Hilton Head, gave them a large order.

The evidence that I gave Dr. Cooper an order to purchase from Messrs. Wyeth & Brother any part of the supplies I directed him to procure on the thirty-first of July, is altogether his own. No other witness supports the allegation. He says I gave him the order in his private office, that no one was present but ourselves, and that the order was verbal, and was not limited to drugs. It is, therefore, of course impossible for me to directly disprove his testimony; but fortunately there are many circumstances which, when taken in connection, leave no doubt of the falsity of his evidence.

It has already been shown that the accumulation of large quantities of supplies at certain points was approved of by the Secretary of War, and that he sanctioned the bill, which subsequently became a law, providing for the appointment of Medical Storekeepers to take care of these depots.

He knew of my action from the very first; but on the 10th of November, 1862, he was officially informed of the fact in my annual report, in which I told him that "large depots of medical supplies have been established at New York, Philadelphia, Baltimore, Fortress Monroe, Washington, Cincinnati, Cairo, St. Louis, and Nashville, and have proved of incalculable advantage to the sick and wounded. Moreover, large sums have been saved by the accumulation of stores before the recent advance in prices took place."

On the twenty-ninth of July, I wrote a private letter to Dr. Cooper as follows:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
July 29th, 1862.

DEAR DOCTOR:—

I shall give you orders in a day or two to get ready a large quantity of supplies, so as to be constantly prepared for any emergency which may arise. I will try to be in Philadelphia in a few days to consult with you on the subject. In purchasing supplies, I think it is much better to buy all articles from those who are dealers in them—liquors from liquor dealers, groceries from grocers, books from booksellers, drugs from druggists, etc. The system of buying all things from one person, which prevailed to a great extent under the old regime, is not the correct principle.

I am glad you like Hobart. I am anxious to see the instruments.

Yours sincerely,

W. A. HAMMOND.

SURGEON G. E. COOPER, U. S. A.,
Philadelphia.

Now, is it likely that I would have written this letter on the twenty-ninth of July, and on the thirty-first have ordered Dr. Cooper, as he swears, to purchase groceries, liquors, etc. from the Messrs. Wyeth? He himself in his evidence admitted that the letter "was familiar to him;" it was seen in his possession by at least one of his clerks; and all of them swear that the partially erased indorsement on the back, "Received July 30th, 1862," is in his handwriting. The letter was admitted in evidence by the court.

Dr. Cooper also swore that I had previously given him verbal orders to purchase everything of the Wyeths; and yet I put in evidence two other letters (official) which contradict him positively.

Dr. Cooper swore that he remonstrated with me relative to the alleged order to purchase of Wyeths. Is it probable that if I had given him an order to purchase of them to so large an amount, he would not have insisted in having it in writing? I gave all my orders openly. I contend now, as I did then, that I had a right to order the Medical Purveyor of whom he should purchase. The Surgeon-General is the responsible head of the Medical Department, and Dr. Cooper at that time had given no bonds for the faithful performance of his duty. Therefore I claim that if I had given the order, I would have committed no offense, unless it was given corruptly and with the intent to aid in a fraud.

Did I know on the 31st of July, 1862, that Wyeth & Brother had already furnished bad drugs, of short weight or quantity, and of excessive price? If I did, and gave Dr. Cooper an order to purchase of them, I committed a grave offense; and if under these circumstances I sanctioned his purchases of them, my misdemeanor would have been scarcely less.

When I came into the office of Surgeon-General, I found the Messrs. Wyeth were dealing largely with the Government, not only with the Medical Department, but with the Quartermaster's Department. Dr. Finley, my predecessor, had ordered the Medical Purveyor to purchase of them, as the following letter shows:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
September 21st, 1861.

SIR:—

By direction of the Surgeon-General, I forward to you the accompanying Requisition of Assistant Surgeon C. R. Alexander, Medical Purveyor at St. Louis, Mo., for 80,000 men, for four months, ending December 31st, 1861, who wishes that Mr. Wyeth, of Philadelphia, may be directed to furnish the articles.

I have the honor to be,

By order.

Very respectfully,

Your obedt. servt.,

L. A. EDWARDS,

SURGEON R. S. SATTERLEE, U. S. A.,

Surgeon U. S. A.

110 Grand Street, N. Y.

The word "who," in the above letter, does not perhaps refer

grammatically to the "Surgeon-General;" but that this is an inadvertence of the writer is clear, from the facts that Dr. Alexander made no such request, and that Mr. Wyeth did put up the supplies.

This letter was offered in evidence by the defense and rejected by the court. (P. 2218.)

Messrs. Wyeth also, before I came into office, furnished the medical stores for the Burnside expedition to North Carolina. And the following letter from the Medical Purveyor of that expedition relates to the quality of the articles they supplied:—

ROANOKE ISLAND, March 7th, 1862.

DR. SATTERLEE, *Medical Purveyor.*

DEAR SIR:—

Inclosed please find my receipt for medical stores. I should have forwarded it before, but the articles did not arrive until the 3d instant. I yesterday examined them and found all correct.

I would here remark that the stores were most carefully packed, and I do not believe there is more than one bottle broken out of the entire invoice. I tested the whisky yesterday, and I think it is the best, without exception, that I have seen in our army.

So far as my judgment goes, Messrs. Wyeth & Brother are entitled to great credit for the promptness and exceeding good order in which they put up their supplies.

I am, dear Sir,

Yours obediently,

J. H. THOMPSON,

Brig. Surgeon U. S. A.

Now, although this letter was acknowledged by Surgeon Thompson, then a witness before the court, to be his, the court rejected it as evidence! It was written before my appointment, but as I had seen it, it was admissible, as showing my knowledge of the character of Messrs. Wyeths' supplies. Dr. Thompson also testified before the court that the drugs and liquors which this firm had furnished before my appointment were of excellent quality. (Page 1877.)

The Army Regulations require all medical officers receiving supplies to report to the Surgeon-General their character, and whether or not they agree with the invoices. *No report was ever made to my office, previous to July 31st, 1862, that the stores supplied by Messrs. Wyeth were inferior in quality, deficient in quantity, or excessive in price.* And only one was made after that date. This was from a citizen physician stationed at Fort Delaware, and was at once referred by me to Surgeon Cooper for investigation. It was of date September 7th, 1862.

As to the good quality of the drugs which this house had furnished, the evidence was overwhelming. Medical Inspectors Cuyler, Coolidge, and Vollum; Surgeons Murray, Cox, and Thompson, Medical Purveyors; Surgeon Letterman, Medical Director of the Army of the Potomac; Surgeon Abbott, Medical Director Department of Washington; Surgeon A. K. Smith, Direc-

tor of the Army Laboratory in Philadelphia; Prof. Maisch, the Chief Chemist of the Laboratory; Surgeons Magruder, I. I. Hayes, L. A. Edwards, and J. Hopkinson, Assistant Surgeon William Thompson, and Acting Assistant Surgeons Baldwin and Rowe, Mr. Farr, of the house of Powers & Weightman, from whom the Messrs. Wyeth obtained the greater part of the medicines they put up, Mr. Locke, who furnished them the alcohol, and Mr. Harrison Smith, who purchased the liquors, teas, etc. for them, testified to the excellent character of their supplies.

With the single exception of the report from Fort Delaware, no complaint of the character of the supplies furnished from Philadelphia had reached my office (and that, I think, only related to some flaxseed) before Dr. Cooper was finally relieved by the Secretary of War. After that event, I heard rumors of bad quality and deficient quantity. Before they had assumed an official form, I sent Medical Inspector Coolidge, U. S. Army, to Philadelphia, with the following instructions:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
December 4th, 1862.

SIR:—

You will proceed to Philadelphia to-morrow and make the following inquiries:—

1st. Of whom the late Medical Purveyor purchased the medicines and hospital stores issued to the hospitals in Philadelphia and the army at large.

2d. Whether or not the articles purchased of the several dealers were of good quality and proper weight.

3d. Whether, in case of any deficiencies in these respects, the facts were reported to this office and to the dealers, and what steps were taken, and by whom, to rectify them.

4th. Whether or not the late Medical Purveyor purchased on his own responsibility of whom he pleased, or by orders or instructions from this office.

You are authorized to call on Acting Assistant Surgeon R. E. Rogers, U. S. A., Professor of Chemistry in the University of Pennsylvania, for any assistance you may require in making these examinations, and upon the surgeons in charge of the several hospitals.

By order of the Surgeon-General.

Very respectfully,

Your obedt. servt.,

J. R. SMITH,

Surg. U. S. Army.

MEDICAL INSPECTOR R. H. COOLIDGE, U. S. A.,

Washington.

The report of Medical Inspector Coolidge is so perfectly conclusive, relative to this matter of bad quality and short measure, that I append it without abridgment.

WASHINGTON, D. C., December 26th, 1862.

GENERAL:—

In obedience to your orders of the fourth instant, I proceeded to Philadelphia the next day, and herewith present the result of the inquiries and examinations I was directed to make.

In answer to the first inquiry, "Of whom the late Medical Purveyor purchased the medicines and hospital stores issued to the hospitals in Philadelphia and to the army at large?" I respectfully refer you to the letter of that officer, and to the list of names of merchants therein inclosed, marked respectively Nos. 1 and 2. [This list contains the names of fifty-six firms of Philadelphia.]

In reply to the second inquiry, "Whether or not the articles purchased of the several dealers were of good quality and of proper weight?" I have to state that I visited many of the hospitals and examined the medical and hospital supplies, weighing or measuring large numbers of articles.

I have no hesitation in saying that, as the very general rule, the medicines and hospital supplies were of good quality, and of proper weight or measure. With few exceptions, the medicines were not only good, but of the best quality, and the supplies generally compare favorably with those furnished to the army during the last twenty years, with the exception of iron bedsteads and blankets. The kind of iron bedstead supplied to the Medical Department previous to the present rebellion is better, but at the same time far more costly than those now furnished, and I believe it to be impossible at present to purchase as good blankets as were formerly made specially for our hospitals.

I have fully satisfied myself that the reports of deficiencies in weight and measure of articles purchased in Philadelphia originated in testing them by troy instead of avoirdupois weight, and in measuring of fluids that are sold by weight.

Although this statement will be perfectly understood by yourself, it is proper to state that the troy ounce is 42.5 grains heavier than the avoirdupois ounce, and that eight ounces, by weight, of chloroform will measure but little more than five fluid ounces. I found in many of the hospitals a nest of weights purporting to be a pound, but which was really sixteen ounces troy, being 680 grains heavier than the avoirdupois pound.

For the exceptions to the general rule of good quality and proper weight, I refer you to the accompanying letter, from Medical Storekeeper Victor Zoeller, marked No. 3.

In addition to the articles therein specified, I found in some of the hospitals powdered opium slightly deficient in weight, which ought not to have been the case if the opium had been thoroughly dried when sold. Lump opium weighed less than invoiced, but the deficiency was not greater than the usual loss per cent. in drying. Some cod-liver oil measured twenty-six instead of thirty-two ounces; to this the Messrs. Wyeth state that they employed a professional bottler to bottle the oil from the cask, and that it is usual to gauge a few bottles and fill others to the same level, and they explain the difference found in actual measurement by want of uniformity in the size of the bottles, it having been impossible during the summer to obtain bottles of the same mould in sufficient numbers to fill the army requisitions.

To the third inquiry, "Whether or not, in case of any deficiencies in these respects, (quality and weight,) the facts were reported to this (the Surgeon-General's) office, and what steps were taken, and by whom, to rectify them?" I reply that I have not been able to find an instance in which a report of the bad quality or deficient quantity of any article of medical and hospital supply was made to the Surgeon-General's office, and the only reports of that character that have been made to the Medical Purveyor in Philadelphia are those mentioned in the letter of Medical Storekeeper Zoeller, above referred to. I have no reason to believe that any fraudulent sales were made.

So far as I have been able to ascertain, the parties who have sold articles of inferior quality or of deficient weight, have cheerfully replaced the articles with others of good quality, and made good the reported deficiencies.

In reply to the fourth inquiry, "Whether or not the late Medical Purveyor

purchased on his own responsibility of whom he pleased, or on orders or instructions from this (the Surgeon-General's) office?" I respectfully refer you to the accompanying letters, addressed to myself, by Surgeon George E. Cooper and the Messrs. Wyeth, marked respectively Nos. 4 and 5.

I have the honor to be, very respectfully,
Your obedt. servt.,

RICHARD H. COOLIDGE,
Medical Inspector U. S. A.

BRIG.-GEN. W. A. HAMMOND,
Surgeon-General U. S. A., Washington, D. C.

This letter, which, among other points, contains conclusive evidence that no report of the bad quality or deficient quantity of any article of medical supply purchased in Philadelphia had been made to my office, and thus bears directly upon the matter at issue in the 6th specification, was rejected by the court, but in his subsequent testimony (page 1790 and following) Medical Inspector Coolidge swears positively to the circumstances connected with the reports of bad quality and short weight as stated by him, and that the deficiencies were not confined to any one firm.

And now as to what houses were concerned in the furnishing of these supplies.

From the report of the Medical Storekeeper, referred to by Dr. Coolidge, it is shown that wine of colchicum, ext. of belladonna, paregoric, laudanum, tincture of aconite, oiled silk, adhesive plaster, and lint furnished by Messrs. Hance, Griffith & Co., were either of bad quality or deficient quantity. As in the cases which occurred to the Messrs. Wyeth, the articles were replaced by them. I never considered that Messrs. Hance, Griffith & Co. were guilty of fraud any more than I regarded the Messrs. Wyeth as criminal. Any one at all conversant with the trade and the necessity which existed for rapidly furnishing the supplies needed, will understand how such deficiencies could occur. It is very plain, however, that I knew nothing of any defects in quality or quantity before Dr. Coolidge's report, which was made several months after the order to Dr. Cooper, set forth in the 6th specification, is alleged to have been given. Dr. Cooper himself testifies that he never made any report to me relative to either of these points.

The only evidence adduced in support of the allegation that I knew the Messrs. Wyeth had furnished bad drugs, of deficient quantity and excessive price, is that of Dr. Cooper, who swore that he had, on the thirty-first day of July, shown me a single bottle of alcohol which he said was two ounces short, and of a man named Keffer, himself a dealer in alcohol, who measured and examined this bottle. The value of Keffer's evidence will be perceived by every chemist when his assertion, that he knew the alcohol contained fusel oil from the fact that it was sticky when rubbed on the hands, is considered. The alcohol furnished by the

Messrs. Wyeth was manufactured by Mr. Z. Locke, of Philadelphia, and, according to the United States Dispensatory of Profs. Wood and Bache, is of excellent quality and is the best made in that city. It is impossible that fusel oil could have been added to it, for this substance is and was worth more than alcohol. As to the deficiency in quantity, it did not exist, and even if it had existed, I knew perfectly well that quart bottles vary in measure, sometimes running under thirty-two ounces, but generally exceeding that capacity; and if I had intended giving Dr. Cooper an order to purchase of the Messrs. Wyeth, no such examination as that testified to by Cooper and his friend Keffer, who was himself asking for orders, would have influenced me. That Dr. Cooper did not himself believe at that time in any fraudulent conduct on the part of the Messrs. Wyeth, is shown by the fact that he subsequently, without alleging any interference from me in their behalf, gave them large orders. As to the price of Wyeths' alcohol, it is shown by the testimony of Mr. Perot, a druggist of standing in Philadelphia, to have been cheaper than that of Dr. Cooper's particular friends, Cantwell & Keffer. It is also proven by Dr. A. K. Smith, U. S. A., and Prof. Maisch, of the laboratory, that alcohol taken from the same lot as that referred to by Cooper and Keffer, was over measure and of excellent quality. Since my relief from duty, and even since the adjournment of the court, the Government has bought largely from this house.

As to any corrupt influence brought to bear upon me by the Messrs. Wyeth, no single witness could be found to point at the shadow of such a thing. On the contrary, Colonel Scott, late Assistant Secretary of War, and a connection of Mr. John Wyeth, whom I had never seen while I was in charge of the Bureau, and with whom I had never had the least correspondence, but who was supposed by the Judge Advocate to have bargained for my appointment, testified as follows, (page 1500):—

“Q. (By Judge Advocate.) State whether you have any personal knowledge of suggestions about furnishing John Wyeth orders for supplies connected with the appointment of Surgeon-General Hammond.

“A. None, sir. I never saw General Hammond in my life until October, 1863. I never, by implication or otherwise, had anything to do with procuring an order from General Hammond for John Wyeth or anybody else, to furnish supplies for the Government.”

And Mr. Francis Wyeth, a member of the firm, (Mr. John Wyeth being temporarily in California, on business, and not served with a summons by the Government, though I desired that he might be called as a witness for the defense,) testified as follows:—

“Q. State whether, in any of the transactions of your house with the Medical Purveyor's Department of the United States, the accused had any interest, personal or pecuniary, direct or indirect, any profit or advantage therefrom.

"The Judge Advocate objected to this question; was overruled, and desired his exception to be noted.

"A. He had not."

And further, when cross-examined by the Judge Advocate.

"Q. How do you know that the Surgeon-General had not any interest in the supplies furnished by your house?

"A. No business connected with the house could be carried on without my knowledge. Being a partner in the concern, I was interested in all the moneyed transactions of the firm. I would be consulted, and be one to advise with."

As to the amount of business done by the Messrs. Wyeth with the Government, while I was in charge of the Bureau as Surgeon-General, the following table shows how it compares with that done by other firms:—

Paton & Co., New York.....	\$1,813,872 90
Wyeth & Brother, Philadelphia.....	657,122 17
Wilson & Peter, Louisville.....	592,809 37
Schiefflin & Co., New York.....	306,694 67
E R. Squibb, New York.....	286,199 40
Suire, Eckstein & Co., Cincinnati.....	252,122 17

It is thus seen that the business of the Messrs. Wyeth was only about a third that of a firm in New York, and very little larger than one in Louisville.

During the period above referred to there was disbursed by the Medical Bureau:—

In New York.....	\$5,193,525 47
Philadelphia.....	2,314,738 07
Louisville.....	1,429,051 21
Cincinnati.....	1,029,940 93
Baltimore.....	608,320 10
St. Louis.....	600,047 88

If any undue preference is shown for Philadelphia, I am unable to discover it; and I doubt if any more equitable distribution of the disbursements of the Medical Department could have been made. Notwithstanding the orders given to Dr. Cox, the Medical Purveyor in Baltimore, it is seen that he continued to purchase to the extent of over six hundred thousand dollars.

And now I must bring to a close my remarks relative to the 6th specification. I do not believe any disinterested and intelligent person who carefully reads the record of the trial can for a moment believe me guilty of its allegations, and I do not envy the feelings of the majority of the court who, blinded by fear and prejudice, have reached a conclusion far more dishonorable to them than to me.

In relation to the 7th specification, I have very little to say. I admit giving the order specified; but as the court could not discover any evidence at all tending to show corrupt motives, and as it could not disregard the overwhelming testimony adduced rela-

tive to the good quality of the beef extract and the necessity which existed for its purchase, there remains nothing but an excess of authority on my part, upon which I have already remarked at sufficient length. The evidence of Medical Inspector Coolidge respecting the beef extract is so conclusive that I subjoin a portion of it.

In answer to a question of the accused to state what he knew of the use of Wyeth's beef extract after the second battle of Bull Run, Dr. Coolidge said:—

“I was ordered to the battle-field of Bull Run, near Centreville, on the night of Saturday, the 30th of August, 1862. I had no means of knowing what supplies were on the battle-field; the Surgeon-General sent out a train containing quantities of hospital supplies, and among them large quantities of beef tea—some two thousand cans. These arrived at Centreville on Monday morning, the second of September. At that moment there was not an entire ration—a day's ration—for the troops in that army; at least if there was, I could not by any possibility hear or learn from the commissaries that there was. With great difficulty I got one beef for the wounded in Centreville and its immediate vicinity. At that time there were—according to reports, the best information I could get at the moment—lying upon the battle-field, seven miles in front of Centreville, about 500 wounded. That number I subsequently ascertained to be nearer 3000 than 500. Those men were lying upon that battle-field from the day of the battle—Saturday—some of them from the day previous to that last day's battle, until the eleventh day of September, before they were all removed. In that time the most valuable food they had was this extract of beef. *During the whole time, until Thursday, they had nothing to live upon but the hospital stores sent out by the Surgeon-General, and part of two beeves, which I procured through the instrumentality of the Medical Director of the rebel army.* I say no food but what the men had in their haversacks and what rebel troops passing through the battle-field distributed to them individually, as a matter of charity, and it amounted to but little until Thursday. On Thursday morning the supply trains came from Washington with food for the wounded; and in those trains almost every train brought fresh bread and this beef extract, so that the two thousand cans was not all that was furnished of the beef. And I will further add that, when the flag of truce was granted, upon information that 500 wounded lay upon the field of battle, the detail of surgeons in attendance was made for that number of wounded, and consequently the number of attendants on the field was so small, compared with the work that had to be performed, that *if we had had ordinary food we would not have been able to cook it in the quantities required by the wounded; and I believe that the hospital supplies, and mainly the beef extract, saved many lives upon that battle-field.*”

Medical Inspector Vollum's testimony is to the same effect as that of Dr. Coolidge.

Of the 8th specification I was considered not guilty by the court. I gave the order specified, and therefore the finding is not correct. The court ought to have found the facts, and have stricken out the words, “*in disregard of his duty,*” etc.

2D CHARGE.—The specification to this charge alleges that I made a false statement. In order that the public may see upon what evidence I was convicted of this charge and specification, I

subjoin all the evidence which the prosecution adduced, (page 676 of the record.) The italics are mine.

"Henry W. Halleck, a witness called by the Government, being duly sworn, testified as follows:—

"*Q.* (By the Judge Advocate.) State, if you please, your name and rank in the service of the United States.

"*A.* Henry W. Halleck, Major-General, Acting General-in-Chief.

"*Q.* State, if you please, whether you made any communication in writing to Surgeon-General Hammond, about October 1st, 1862, in relation to Surgeon Murray.

"*A.* I did.

"*Q.* State if you have a copy of that communication with you.

"*A.* I have. This is a copy of it."

The witness here produces, and the Judge Advocate offers in evidence, without objection, the following paper:—

HEADQUARTERS OF THE ARMY, WASHINGTON, D. C.,
October 1st, 1862.

GENERAL HAMMOND,

Surgeon-General.

Dr. Murray has served long and faithfully with the army in the field in the West, and he now wishes to be transferred to Eastern hospital duty.

Please give his case your consideration.

Very respectfully,

Your obedt. servt.,

H. W. HALLECK,

General-in-Chief.

"*Q.* State whether you made any other communication upon this subject to General Hammond at any other time.

"*A.* No, sir, to the best of my recollection I did not.

"*Q.* State whether you made any other communication to him orally at any time upon the subject—the transfer of Murray.

"*A.* *Never, sir, to my recollection.*

"*Q.* Is the full name of Dr. Murray in your note, given in evidence, Robert Murray?

"*A.* Yes, sir.

"*Q.* (Cross-examined by the accused.) Did you receive any communication from Dr. Robert Murray before you wrote that letter to General Hammond?

"*A.* I did.

"*Q.* Have you that letter here?

"*A.* I have not.

"*Q.* In that communication, please to state whether he said anything in reference to his being ordered from his then sphere of duty to some other.

"*A.* *To the best of my recollection, he added to a letter on private business, 'I should like to go East on hospital duty,' or something to that effect. I do not think he designated any place other than 'Eastern hospital duty.'*

"*Q.* How long was that before your letter to General Hammond?

"*A.* It was at the same time, sir. I wrote the note to General Hammond immediately when receiving that letter; probably the same day and within a few hours.

"*Q.* Be good enough to state whether you know what has become of that letter from Dr. Murray.

"*A.* I possibly may have it among my private papers."

The following morning, General Halleck sent to the court a copy of portions of the letter referred to. It was as follows:—

[PRIVATE.]

LOUISVILLE, September 27th, 1862.

MY DEAR GENERAL:—

I must trouble you with a short letter, to urge you to order me to some Eastern or Northeastern station. * * * * * My claims are good for an Eastern station. I have been hard at work in the field for over a year. I came here when the Department was first organized, as Medical Director of the Department of the Ohio. After serving six months here at headquarters, and six months in the field, I now find myself occupying a subordinate position in the same Department; not from any dissatisfaction with my performance of the duty, for Dr. Wood, the Assistant Surgeon-General, assures me that my services were recognized and appreciated at the Surgeon-General's office; and I was considered, when he was there, to have done more duty during the last year than any other officer in the corps.

I want to be ordered to hospital duty in Philadelphia, New York, or some point north of these places. Philadelphia would suit me best.

My profession being that of a physician not a soldier, I am anxious to be where I can improve myself in medicine and surgery.

As Medical Director, I learn nothing in my profession proper. But my principal reason for desiring this change of station, is on account of my wife. * * * * * I am intensely anxious to be near her. I cannot ask for leave, but I can, without hesitation, ask for hospital duty. * * * * *

If you will send a memorandum to the Surgeon-General's office, requesting him to order me to a hospital in Philadelphia, it will be done at once.

Very truly yours,

R. MURRAY.

MAJOR-GENERAL H. W. HALLECK, U. S. A.,

Washington, D. C.

This is all the evidence on this charge and specification; and on it the court-martial found me guilty of falsehood in writing to Dr. Cooper, on the thirteenth of October, that General Halleck had requested me to order Murray to Philadelphia. There is not the least positive assertion in General Halleck's testimony that he did not have the conversation with me on the subject. He simply does not recollect that he did. The fallibility of his memory is shown by the fact that he did not recollect that Dr. Murray had specified Philadelphia as the place he wished to be sent to; and yet in his letter Dr. Murray mentions it three times. The truth is that a day or two after General Halleck wrote the note to me in regard to Dr. Murray, I had a conversation with him, and he distinctly stated that he would like to have Murray ordered to Philadelphia. In the lapse of sixteen months he had forgotten this fact as he forgot Dr. Murray's wishes as expressed in his letter. Moreover, how did I know Murray wanted to go to Philadelphia, unless I received the information from General Halleck? and what object could I possibly have had in telling Dr. Cooper what I did, unless I believed it to be true? If I had said, "General Halleck wishes Dr. Murray to be ordered East, and you are the only one I think it possible to relieve," it would have fully ex-

pressed as much as what I did write. But, notwithstanding all this, General Halleck's evidence amounts to nothing in support of the charge of falsehood. If he had said, "I recollect distinctly that *I did not* have any conversation with the Surgeon-General," that would have been positive evidence. As it is, his testimony is not of sufficient weight to determine a case of the slightest importance, much less one involving the character of his brother officer. Moreover, the alleged falsehood was asserted on the 13th of October, 1862. If it was a falsehood, why was I not at once arrested and tried for it? The Secretary of War had my letter in his possession a few days after it was written, and yet he allows fifteen months to elapse before he brings the accusation of falsehood against me! Is it credible, that with his known vindictiveness, and hatred of me, he would have given me one day's grace in this or any other matter in which he thought he had me in his power?

This is all I have to say on this subject. I am content to submit the evidence and the attendant circumstances to the judgment of my fellow-countrymen, who cannot fail to see how malign and corrupt were the influences which brought a majority of a court-martial, sworn to determine according to the evidence, and to well and truly try the case before them, to shamefully disregard their oaths, and to lend themselves to the foul work of aiding in the destruction of one whose only crime was that he had resisted the oppression and arbitrary conduct of their master—the Secretary of War.

The 3d Charge was not preferred till after the court was ordered. The finding on the 1st specification is perfectly just so far as the facts are concerned. I did order the Medical Storekeeper to purchase the blankets. The court found that my act was not a corrupt one, but merely in excess of my authority. It was probably thought that a show of justice could be made by such a finding; and this was perhaps the reason why I was found not guilty of the 2d specification. The motive which induced me to order the blankets to be purchased was the fact that Dr. Cooper had written to me that he could get none in Philadelphia; and as this lot was offered at a fair rate and at a lower price than the same blankets had been held by another party, I thought it proper to direct the Medical Purveyor to receive them. He testified to their being good blankets and worth the price. The following is the correspondence alluded to, (pages 477 and 307):—

MEDICAL PURVEYOR'S OFFICE, PHILADELPHIA, PA.,
November 6th, 1862.

SURGEON-GENERAL, U. S. A.,
Washington, D. C.

SIR:—

In the requisition for the hospital at Chestnut Hill, there is a call for seven thousand blankets. There are in the market but few white ones of good

quality, and it will be necessary, I think, to procure brown ones. Of these it is difficult to procure a good quality under seven dollars and a half a pair; for this price I can procure a good article. I fear I will be compelled to purchase, as the blankets which have been ordered from Paton & Co. to be imported, come in slowly.

Your obedt. servt.,

GEO. E. COOPER,
Surgeon U. S. A.

This was answered immediately, and the blankets sent:—

SURGEON-GENERAL'S OFFICE, WASHINGTON CITY, D. C.,
November 9th, 1862.

SIR:—

Your communication in regard to the 7000 blankets required for the Chestnut Hill hospital in Philadelphia has been received. In reply, I am instructed to inform you that 7000 have been ordered to be sent to you: 4000 from Surgeon R. S. Satterlee, N. Y., and 3000 from the Medical Purveyor in this city.

By order of the Surgeon-General.

Very respectfully,

Your obedt. servt.,

C. H. ALDEN,
Assistant Surgeon U. S. A.

SURGEON G. E. COOPER, U. S. A.,

Medical Purveyor, Philadelphia.

There are several points of importance which I could consider with advantage but for my anxiety not to extend this statement beyond reasonable limits. For a full review of the evidence, and for an analysis of the testimony of Surgeon George E. Cooper, upon whom the prosecution mainly depended, I must refer to my defense, and to the record of the court, which I hope will soon be published. After an examination of the many self-contradictions of this witness, and the numerous points in which his evidence was directly contradicted by others, I do not believe any intelligent and impartial person would be willing to adjudge my case on the basis of what he has said.

After Dr. Cooper had concluded his evidence in regard to the letters of June seventeenth and July thirtieth, which the Judge Advocate wished him to swear had never been in his possession, but which Dr. Cooper was forced to admit "were familiar" to him, he came to me outside of the court-room and expressed the utmost contrition for the evidence he had given. He said no one could tell how he had been goaded and threatened, and cajoled into testifying as he had, and that he would "catch it" for not swearing he had never received the letters above referred to. His conversation was long and evidently sincere, and was heard in part by Messrs. Bradley and Harris, my counsel, and by Dr. S. Adams of the army. To Mr. Harris he expressed himself in similar terms to those he used to me. I can only hope, for his own sake, that he has truly repented of the bitter wrong he has done me.

The leaning of the court toward the prosecution was shown at

a very early day and throughout the proceedings, both to myself and counsel. When I asked that the proceedings should not commence till the arrival of General Starkweather, one of the members, upon the ground that I was entitled to as full a court as possible, my request was refused, in accordance with the wishes of the Judge Advocate. The next day, after the Judge Advocate had been afforded the opportunity of getting the views of the Secretary of War, and had doubtless learned that it was highly desirable that General Starkweather should be present, the request which had been refused before was granted at his suggestion!

Throughout the whole proceedings, day after day, the court allowed the Judge Advocate to assail me with abuse, which would have disgraced the lowest criminal lawyer of the Old Bailey or Tombs. To this remark, however, I except Generals Ketchum, Green, and Paine, who, on several occasions, expressed their disapprobation, and whose fair and just minds, attention to the evidence, and whole demeanor were such as to command both my respect and admiration.

The rulings of the court were many times such as to unjustly exclude evidence which I deemed important to my defense, and which, by the rules of courts, should have been accepted.

I was not allowed by the court to reply to the false and malicious address of the Judge Advocate, though nearly every writer on Military Law lays it down as a fixed principle that the accused before a court-martial should be allowed to have the last words.

The record numbers nearly 2500 pages, and yet, after the court was cleared for deliberation, only one hour and a half elapsed before the findings and sentence had been agreed upon. It was absolutely impossible that the evidence could even have been hastily glanced over in ten times this period, much less have been considered and digested with the care which those conscious of the solemnity of their duty would have felt bound to have given it.

The court-martial was of my own seeking, and, as has been shown, was granted only after my persistent applications. I knew that the matter was entirely in the hands of my enemy. He had the preferring of the charges, the detailing of the court, and the reviewing of the proceedings within his complete control. I knew how arbitrary had been his conduct in regard to courts-martial; how a court of which Major-General Hitchcock was president was outraged by the publication of a general order censuring the members for daring to acquit a person upon whom the evil eye of Mr. Stanton had been cast; how the finding in the case of Col. Belger had been disapproved, and the accused dishonorably dismissed the service when the court had honorably acquitted him; and how, in many other instances, courts had been reminded that there was a power mightier than that of justice to which they were accountable. I knew all these things, but I had so

thorough and unbounded a confidence in the justice of my cause that I did not believe it possible a court would have resulted in anything but my triumphant acquittal. The sequel has shown that my faith was unwarranted, and that it is possible to convict a man not only of crimes he never committed, but of which he never even dreamed.

Another circumstance which shows clearly the existence of a conspiracy to ruin me, is the fact that during my trial a number of letters were returned to me which had been stolen from my office. In January, 1863, Dr. J. R. Smith, who was at the time the principal assistant in the bureau, had a large sum of money stolen from a locked drawer of his desk; letters were missed, others directed to me were never received; and it was very evident that my correspondence was tampered with.

On the 17th of March, 1864, a package of letters was handed to my counsel by a gentleman, a friend of mine, to whom they had been addressed. The package was opened by my counsel, Messrs. Bradley and Harris, in my presence, and, in addition to the letters sent, contained the following:—

“Circumstances have placed the inclosed papers in my control, and I know where there are others which bear strongly in General Hammond's favor, and which have been secretly taken from his office. I will obtain them if possible. He has been and now is conspired against. I cannot remain silent while a great wrong is attempted. I dare not tell you *how* I got these papers. I did not steal them. I know you will do what is right with them; my only object is

JUSTICE.”

There were events connected with the return of these letters to which I do not more specifically refer now, as I hope to be able ere long to connect the several links into a complete chain of evidence. I will only say that no doubt exists that these letters had in part been stolen from my office and been mixed by some one with letters which had been sent by me to Dr. Cooper and to the War Department.

In all, the package contained forty-nine papers. They were of such a character as showed that my office had been ransacked from top to bottom, and even the private drawers of my desk invaded. It was doubtless in one of these raids that Dr. Smith's money was taken.

Of these forty-nine papers, one was the original letter from me to Dr. Cooper, dated June 17th, 1862, with the indorsement on the back in his handwriting, already given, and which had either been taken from his office or furnished by him to some one in his confidence. I have reason to believe that the letter from Cooper to me, dated June 16th, which he swore he did not write, was in the possession of the sender, but that he was subsequently deprived of it in some way.

On the twenty-eighth of March my counsel, Mr. Bradley, re-

ceived through the post-office my letter to Cooper of July 30th, 1862, which had evidently once been in his office.

I have also received information that while my trial was in progress another package of letters, which had been stolen from my office, was sent by some enemy to Major-General Oglesby, the President of the Court. I do not know what he did with them. He did not return them to me, as he was bound in honor to do, and my counsel has written to him on the subject. I believe these letters were obtained, by the agency of the Reeder Commission, from my office and from Dr. Cooper's. Those from my office were taken surreptitiously.

I submit these facts to the public without comment. No one can fail to perceive how thorough and how persistent was the combination against me.

In his reply to my defense, Judge Advocate Bingham made several willfully false assertions and designedly misrepresented the record. For instance, he wishes to make it appear that I had declared in court that I had never received any letters from W. A. Stephens; whereas the record shows that he interrupted me in the middle of a sentence, which I was not allowed to finish. He asserts that Dr. Laub was relieved from duty as Medical Purveyor by me because he would not lend himself to my schemes, when in fact he was relieved by the positive order of the Secretary of War.

Mr. Stanton sent for me one morning, and informed me that Dr. Laub was making large purchases in Georgetown, which was no place in which to procure drugs. He said there were rumors of misconduct on Dr. Laub's part, and he wished him relieved. I returned to my office and wrote out Dr. Laub's detail for the West. Several days elapsed, and one morning when I was at the War Department I asked Mr. Watson, the Assistant Secretary of War, what had become of Dr. Laub's detail. He did not know, but was under the impression the orders had been made out. A few days afterward I received the following:—

WAR DEPARTMENT, WASHINGTON CITY,
November 8th, 1862.

GENERAL:—

I am unable to find the letter you mentioned to me a few days since, in relation to the relief of Dr. Laub as purchasing agent for the Medical Department.

Please send a duplicate of your letter, as it is clear that Dr. Laub is an improper person to be intrusted with such a duty, and ought to be relieved without delay.

Very respectfully,

Your obedt. servt.,

P. H. WATSON,

BRIG.-GEN. WM. HAMMOND,

Assistant Secretary of War.

Surgeon-General.

There are so many other deliberate perversions of fact in the reply of Judge Advocate Bingham, that it would require more space than I think it necessary to employ to expose them.

Since the adjournment of the court, my counsel addressed a letter to the President, asking whether or not he would consider a review of Mr. Bingham's address, should such a paper be prepared. The court had refused this privilege, but it was hoped the President would see the justice of granting it. No answer, however, was returned.

Subsequently Mrs. Hammond requested an interview, simply in order that she might ask him to listen to evidence which had not been brought before the court. He sent out her card, with the indorsement:—

“Under the circumstances, I should prefer not seeing Mrs. Hammond.
A. LINCOLN.”

The same day I wrote him the following letter:—

WASHINGTON, D. C., August 2d, 1863.

SIR:—

I have the honor to request that you will grant me a short interview, at such time as may suit your convenience.

I do not know what has been the decision of the court-martial in my case, but, conscious of innocence, I cannot believe it to have been adverse. If, however, I am mistaken, and you approve the proceedings, a great injustice will be done me.

I do not believe you will allow a wrong to be committed when in your power to prevent it, and I may be able, by a few words, to save myself from undeserved injury, and give you the consciousness of having overlooked no means of ascertaining the truth.

I am, very respectfully,

Your Excellency's obedt. servt.,

WILLIAM A. HAMMOND,

Surgeon-General U. S. A.

HIS EXCELLENCY THE PRESIDENT.

No notice was taken of this letter; and on the eighteenth of August the proceedings, findings, and sentence of the court-martial were approved, without, as I have every reason to believe, the President having read a single page of the record.

The review submitted to him by Judge Advocate General Holt is entirely *ex parte*. So far is this the case, that the specifications and portions of specifications which the court decided were not established, are not referred to by this officer. Not one single jot or tittle of the evidence for the defense is mentioned; and he indulges in abuse and misrepresentation which, though perhaps pardonable in an individual like Bingham, specially selected for a particular kind of work, are inexcusable in the chief military law officer of the Government. It must also be recollected that the charges were drawn up and signed by him, and yet he is permitted to review the proceedings. He also shows his ignorance of the law in several instances, but in none more so than in asserting that I took the duty of purchasing from the bonded officers of the Government, when in fact the law requiring Medical Purveyors to give bonds in such sums as the Secretary of War shall direct

was not passed till July 17th, 1862, after most of the transactions referred to in the charges; and Dr. Cooper did not give bonds till the following October, nor Dr. Cox till the summer of the subsequent year. It might be supposed, from Mr. Judge Advocate General Holt's remarks, that I was furnished with counsel by the Government. Such was not the case. I supplied myself with counsel, and am indebted to friends, not involved in the charges and specifications preferred against me, for the loan of the money—six thousand dollars—with which to pay them.

And thus the end which Mr. Stanton has had in view for the past two years has been accomplished—so far as it was possible for him to bring it about. He has not only deprived me of my commission, but has left no means untried to take from me the name for truth and honor which has heretofore been accorded to me by those who knew me best. In this he has signally failed. It may be, and doubtless is the case, that many of those to whom I am personally unknown will be brought to believe in the truth of the accusations against me. I do not blame them. It is difficult for one man to contend successfully against such tremendous odds as have been and are in operation against me. I have never, however, despaired of the eventual triumph of my cause. I know it rests upon the sure foundations of truth and justice; and I shall continue to pursue my path through life with the knowledge that it is crime, not punishment, which brings disgrace. Thinking thus, the intelligence that Mr. Stanton has instituted a civil suit against me has given me great satisfaction, although the motives which prompted this action on his part were such as generally influence him whenever he has to deal with any one he has injured. Should he bring this suit to trial, and I stand upon the same ground with him before a jury of my countrymen, I shall have no fears as to the result. The facts, however, that he has brought no suit against either Messrs. Wyeth or Stephens, but only against me, and that his proceedings were not instituted till after the publication of my card, show that his only object was to forestall public opinion. The opportunity which such a suit would afford for getting the decisions of competent courts upon the legality of my acts is one which I very much fear it is not his intention to give me if he can by any possibility avoid it.

The time will come when such wickedness as I have endeavored to expose in this statement will meet with its due reward. Till that hour arrives, I shall not bear myself any the less proudly, by reason of the temporary triumph of my enemies; but, conscious of right, will patiently wait for the full vindication which is sure to come.

WILLIAM A. HAMMOND.

No. 162 WEST 34TH STREET,
NEW YORK, Sept., 1864.

DEFENCE

OF

BRIG. GEN'L WM. A. HAMMOND,

SURGEON GENERAL U. S. ARMY.

DEFENCE

OF

BRIGADIER GENERAL WM. A. HAMMOND, SURGEON GENERAL U. S. ARMY.

The accused has been arraigned and tried upon the following charges and specifications :

Charges and Specifications preferred against Brigadier General William A. Hammond, Surgeon General United States Army.

CHARGE 1.—“Disorders and neglects to the prejudice of good order and military discipline.”

SPECIFICATION 1st.—“In this; that he, Brigadier General *William A. Hammond*, Surgeon General United States Army, wrongfully and unlawfully contracted for, and ordered Christopher C. Cox, as Acting Purveyor in Baltimore, to receive blankets of one William A. Stevens, of New York. This done at Washington city, on the seventeenth day of July, in the year of our Lord one thousand eight hundred and sixty-two.”

SPECIFICATION 2d.—“In this; that he, Brigadier General *William A. Hammond*, Surgeon General as aforesaid, did, on the first day of May, in the year of our Lord one thousand eight hundred and sixty-three, at Washington city, wrongfully and unlawfully, and with intent to favor private persons, resident in Philadelphia, prohibit Christopher C. Cox, as Medical Purveyor for the United States, in Baltimore, from purchasing drugs for the army in said city of Baltimore.”

SPECIFICATION 3d.—“In this; that he, the said Brigadier General *William A. Hammond*, Surgeon General United States Army, did unlawfully order and cause one George E. Cooper, then Medical Purveyor for the United States in the city of Philadelphia, to buy of one William A. Stevens blankets, for the use of the Government service, of inferior quality; he, the said Brigadier General *William A. Hammond*, then well knowing that the blankets so ordered by him to be purchased as aforesaid were inferior in quality, and that said Purveyor Cooper had refused to buy the same of said Stevens. This done at Philadelphia, in the

State of Pennsylvania, on the twenty-eighth day of May, in the year of our Lord one thousand eight hundred and sixty-two."

SPECIFICATION 4th—In this; that he, the said Brigadier General *William A. Hammond*, Surgeon General as aforesaid, on the fourteenth day of June, in the year of our Lord one thousand eight hundred and sixty-two, at the city of Washington, in the District of Columbia, unlawfully, and with intent to aid one William A. Stephens to defraud the Government of the United States, did, in writing, instruct George E. Cooper, then Medical Purveyor at Philadelphia, in substance as follows:

'SIR: You will purchase of Mr. W. A. Stephens eight thousand pairs of blankets, of which the enclosed card is a sample. Mr. Stephens' address is Box 2500, New York. The blankets are five dollars per pair;' and which blankets so ordered were unfit for hospital use."

SPECIFICATION 5th—"In this; that he, the said Brigadier General *William A. Hammond*, Surgeon General United States Army, on the sixteenth day of June, in the year of our Lord one thousand eight hundred and sixty-two, at the city of Washington, did corruptly, and with intent to aid one William A. Stephens to defraud the Government of the United States, give to the said William A. Stephens an order, in writing, in substance as follows: 'Turn over to George E. Cooper, Medical Purveyor at Philadelphia, eight thousand pairs of blankets;' by means whereof the said Stephens induced said Cooper, on Government account, and at an exorbitant price, to receive of said blankets, which he had before refused to buy, seventy-six hundred and seventy-seven pairs, and for which the said Stephens received payment at Washington in the sum of about thirty-five thousand three hundred and fourteen dollars and twenty cents."

SPECIFICATION 6th—"In this; that he, the said Brigadier General *William A. Hammond*, Surgeon General United States Army, on the thirty-first day of July, in the year of our Lord eighteen hundred and sixty-two, at the city of Philadelphia, in the State of Pennsylvania, well knowing that John Wyeth & Brother had before that furnished medical supplies to the Medical Purveyor at Philadelphia which were inferior in quality, deficient in quantity, and excessive in price, did corruptly, unlawfully, and with intent to aid the said John Wyeth & Brother to furnish additional large supplies to the Government of the United States, and thereby fraudulently to realize large gains thereon, then and there give to George E. Cooper, then Medical Purveyor at Philadelphia, an order, in writing, in substance as follows: 'You will at once fill up your store-houses, so as to have constantly on hand hospital supplies of all kinds for two hundred thousand men for six months. This supply I desire that you will not use without orders from me.' And then and there directed said Purveyor to purchase a large amount thereof, to the value of about one hundred and seventy-three thousand dollars, of said John Wyeth & Brother."

SPECIFICATION 7th—"In this; that he, the said Brigadier General *William A. Hammond*, Surgeon General United States Army, about the eighth day of October, in the year of our Lord eighteen hundred and sixty-two, at Washington city, in contempt of, and contrary to the provisions of, the act entitled 'An act to reorganize and increase the efficiency of the Medical Department of the Army,' approved April 16, 1862, did corruptly and unlawfully direct Wyeth & Brother, of Philadelphia, to send forty thousand cans of their 'Extract of Beef' to vari-

ous places, to wit: Cincinnati, St. Louis, Cairo, New York, and Baltimore, and send the account to the Surgeon General's Office for payment; and which 'Extract of Beef' so ordered was of inferior quality, unfit for hospital use, unsuitable and unwholesome for the sick and wounded in hospitals, and not demanded by the exigencies of the public service.'

SPECIFICATION 8th—"In this; that he, the said Brigadier General *William A. Hammond*, Surgeon General United States Army, about the *first day of March*, in the year of our Lord eighteen hundred and sixty-three, at Washington city, in disregard of his duty, of the interests of the public service, and of the requirements of the act entitled 'An act to reorganize and increase the efficiency of the Medical Department of the Army,' approved April 16, 1862, did order and direct that the Medical Inspectors should report the result of their inspections direct to the Surgeon General.'

CHARGE II.—"Conduct unbecoming an officer and a gentleman."

SPECIFICATION 1st—"In this; that he, Brigadier General *William A. Hammond*, Surgeon General United States Army, on the thirteenth day of October, in the year of our Lord eighteen hundred and sixty-two, at Washington city, in a letter by him then and there addressed to Dr. George E. Cooper, declared in substance that the said Cooper had been relieved as Medical Purveyor in Philadelphia because, among other reasons, 'Halleck,' meaning Major General Henry W. Halleck, General-in-Chief, requested, as a particular favor, that Murray might be ordered to Philadelphia; which declaration so made by him, the said Brigadier General *William A. Hammond*, Surgeon General as aforesaid, was false.'

An additional charge and specifications preferred against Brigadier General *William A. Hammond*, Surgeon General United States Army:

CHARGE III—"Conduct to the prejudice of good order and military discipline."

SPECIFICATION 1st—"In this; that he, the said Brigadier General *William A. Hammond*, Surgeon General United States Army, on the 8th day of November, A. D. 1862, at Washington city, did, unlawfully and corruptly, order and cause Henry Johnson, then Medical Storekeeper and Acting Purveyor at Washington city, to purchase three thousand blankets of one J. P. Fisher, at the price of \$5.90 per pair, and to be delivered to Surgeon G. E. Cooper, U. S. A., Medical Purveyor at Philadelphia."

SPECIFICATION 2d—"In that he, the said Brigadier General *William A. Hammond*, about the 3d day of December, A. D. 1862, at Washington city, unlawfully and corruptly purchased, and caused to be purchased, of J. C. McGuire & Co., large quantities of blankets and bedsteads, and which were not needed for the service."

BY ORDER OF THE PRESIDENT OF THE UNITED STATES:

Judge Advocate General.

In submitting to the consideration of the Court a case which has occupied nearly three months of incessant labor, and has been stretched by the prosecution over a very extensive field of enquiry, the accused feels that a few prefatory words may not be inappropriate.

The patient and courteous attention the Court has given to the case, justifies him in the expectation that they will weigh carefully, and with candid minds, the views of the law and the testimony it becomes his duty to develop, and he hopes that beyond this, they will appreciate the peculiar circumstances surrounding and influencing his responsible and greatly complicated duties, which he thinks should be measured by no contracted rule deduced from the past experience of the service, but ought to be estimated in the light of a new and suddenly developed necessity, which, taxing to the utmost the resources of the country itself, devolved upon the Department over which the accused was called to preside, duties and responsibilities to which its previous machinery was very inadequate, and which demanded prompt and energetic action. The accused is very far from indulging in any self-laudation, but common justice he thinks requires that whatever there was peculiar in the surroundings of his official position should be fairly considered. A system of administration adequate to supply the wants of less than twenty thousand men during a time of unbroken peace, stands in striking contrast to the requirements of a Department called upon to minister to the myriad wants of a million of men. It was likewise essential that as this great country in its struggle against rebellion had attracted the regards and admiration of the world by the rapid and wonderful development of its resources in all other branches of the national service, the administration of its Medical Department should also be equal to its new experience, and that the soldiers of the State should not only go into the field fully supplied with medical stores, but that in camp and hospital, on the field and in the bureau, our system and its practical working should at least be equally efficient with that of any of the leading European nations, of whose experience in frequent and protracted wars we had become the heritors.

It was, therefore, with no little ambition thus to administer his Department, and with large views of his duties and responsibilities that the accused went into office.

In his construction of the powers conferred upon him by the law, the then existing regulations, themselves law, and the former practice of the Bureau itself, he does not consider himself mistaken; for his experience has but the more strongly satisfied him that for the energetic and thoroughly intelligent administration of the Surgeon General's office, there should be resident in that officer the power of prompt action, when circumstances, sudden in their origin and in the very nature of things known to him in advance of, and more completely than to his subordinates, require such action. He will presently fully discuss the law of the case, and trusts to make clear to the Court the correctness of the view by which he has been governed. Before doing this, however, he has a single reference to make to the imputations upon his official integrity and personal honor involved in the charges and specifications upon which he has been tried.

To lose an official position, even though it be as high and honorable as the one he holds, is of small relative importance; but to have a reputation hitherto unstained and unsuspected, held up to the notice of his fellow-citizens and the scrutiny of his military peers, upon allegations of fraud, corruption, and even of personal untruthfulness, is more difficult to bear. Upon this part of the case he points to the twenty-four hundred pages of record before you, on which it has been sought to impress the proof of his corrupt conduct, and he invites to it your closest scrutiny, in the absolute confidence of an integrity of purpose and conduct its volumes fully vindicate in despite of a prosecution that has spared no labor to convict, and of the marked peculiarities of which he will not at this time trust himself further to speak.

The moment that he found that his official conduct was called into question, he sought with earnest and persistent effort for this opportunity of vindication, and he has been sedulously careful to invite the fullest scrutiny of all that he

has done. He has desired neither evasion nor concealment, and he now submits his case to the consideration of the Court, whose members can have no feeling beyond the soldierly desire to reach such conclusions as may be justified by the substantial merits of the case.

At the very threshold of the enquiry then we are met by the question: What are the powers and duties of the Surgeon General?

The first charge is "disorders and neglects to the prejudice of good order and discipline."

And the first specification is that the accused "wrongfully and unlawfully contracted for and ordered Christopher C. Cox, as Acting Purveyor in Baltimore, to receive blankets of one William A. Stephens of New York. This done at Washington City, on the seventeenth day of July, in the year of our Lord, one thousand eight hundred and sixty-two."

It is sufficient for the present enquiry to take the order of the Surgeon General, p 34 of the record, as the basis of this specification, without enquiring as to what preceded it, but for the purpose of the argument assuming that this was the first step leading to the order given by Dr. Cox to Stephens, on the 38th page of the record. With this must also be associated two other facts; first the telegram from Dr. Cox to the Surgeon General, dated 2nd July, 1862, on page 00, and the telegram of Dr. Cox to Mr. Stephens, on the 4th of July, 1862, page 00, and that the blankets were good and at a fair price.

The facts will then appear in substance as follows: Dr. Cox had received an order to send a supply of blankets to Fortress Monroe. He had none on hand, and could not procure them in Baltimore, and sent an agent to New York to get them. Of these facts he informed the Surgeon General by telegram of the 2nd of July, 1862. On the 3d of July he telegraphed Stephens in New York to send them—on the 4th he telegraphed him not to send them, as he was supplied. He did not communicate these two last telegrams or the fact that he was supplied to the Surgeon General.

On the 10th of July the Surgeon General ordered him to purchase from Stephens.

The question is, had the Surgeon General power by law to *direct* this purchase.

The act under which the accused was appointed to office, to wit: the act of 16th of April, 1862, does not *create* the office of Surgeon General, nor does it define or limit his powers, except in some two or three particulars; nor does it prescribe the mode of action for the powers which he may lawfully exercise.

The 2d section provides. "that the Surgeon General to be *appointed* under this act shall have the rank, pay and emoluments of a Brigadier General. There shall be one Assistant Surgeon General, and one Medical Inspector General of hospitals; * * and the Medical Inspector General shall have, *under the direction of the Surgeon General*, the supervision of all that relates to the sanitary condition of the army, * * * *under such regulations as may hereafter be established.*

Section 3d. There shall be eight Medical Inspectors, * * who shall be charged with the duty of inspecting, * * and who shall report to the Medical Inspector General under such regulations as may hereafter be established. * *

Section 4th. All these officers shall, immediately after the passage of this act, be appointed * * by selection from the medical corps of the army, or from surgeons in the volunteer service, without regard to their rank when so selected, and with sole regard to qualifications.

Section 5th. The Medical Purveyors shall be charged, *under the direction of the Surgeon General*, with the selection and purchase of all medical supplies. * * *In all cases of emergency* they may provide such additional accommodations for the sick and wounded of the army, and may transport such medical supplies as circumstances may render necessary, *under such regulations as may hereafter be established*; and shall make prompt and immediate issues upon *all special requisitions* made upon them under such circumstances by medical officers; and the special requisitions shall consist simply of a list of *the articles required*, the qualities required, dated and signed by the medical officers requiring them."

The substance of the whole act bearing upon the questions

involved in these issues has been inserted to avoid repetition when the question of the powers of the Surgeon General, involved in the 8th specification of the first charge, come to be considered.

It is thus clearly apparent that the Legislature, by this act, recognize the existing office of Surgeon General, and also the office of Purveyor. Neither of these offices is created by this law ; both are embraced in its provisions.

The rule of interpretation, perfectly consonant with the plainest common sense, is settled. We are to look back for the law creating these offices, and defining the duties appurtenant to each.

The designation of the respective offices marks the duties appurtenant to them. The Surgeon General, unless there be some superior known to the law, implies the head of the Medical Department. The word purveyor means one who selects and purchases supplies, generally under the direction of another. A purveyor of the Medical Department carries with it the idea as inseparable from it, of an officer charged with the selection and purchase of medical supplies under the direction of the head of the Department, unless by law there is a restriction on the powers of that superior.

But we are not left to philological speculation on this subject. It has received judicial construction from the highest tribunal in the country whose decision is law until changed by constitutional legislation.

The office of Surgeon General was created by the act of 3d March, 1813, 3 Stat. at large, p. 819, 20 ; § 7, and "his powers and duties" were to "*be prescribed by the President of the United States.*" The office of Apothecary General was created by the same section, with like limitation as to his powers, but that office was dropped when the military peace establishment was reduced by the act of 2d March, 1821, 3d Stat. 616, § 10.

It is well settled as any other rule of construction, that when power is given to the President by law over any one of the several branches of the Executive Department, the head of such Department acts as the President, and orders issued, or regulations promulgated by him, are orders and regulations of the President.

Wilcox vs. Jackson, 13 Pet., 498 : U. S. vs. Eliason, 16 Pet., 291 : Williams vs. U. S., 1 How., 614, are all cases directly in point, and equally so is that of Freeman vs. U. S., 3 How., 556.

We have then the law creating the office, and express authority given to the President to define the powers and duties of the Surgeon General.

The earliest regulations on this subject which are now extant are those of Sept. 1818, issued "By order (signed) D. Parker, Adj. & Ins. Genl.," [which were added to in March 1819,] and an original copy of both of which is exhibited to the Court with this paper.

By the first paragraph the Surgeon General is made "the director and immediate accounting officer of the Medical Department. He shall *issue all orders, and instructions* relating to the professional duties of the officers of the Medical Staff; and call for and receive such reports and returns from them as may be requisite for the performance of his several duties.

The Apothecary General was, with his assistant, empowered to "purchase (according to an estimate therein provided for) *all medicines, &c., required for the public service of the army*"—(p. 4.)

This was the germ of the medical purveyorship. Thus the law continued to 1832, when new regulations signed, "By order of Maj. Genl. Macomb, R. Jones, Adj. Genl.," dated 13th Aug., were promulgated under authority of the War Department. The first paragraph of these is almost *totidem verbis*, that of the regulations of 1818. There were then in the service Medical Directors who were charged with almost the identical services by the act of 16th April, 1862, imposed on the Medical Inspectors, and they had to report, by the 2d paragraph, to the Surgeon General. The 13th paragraph, p. 5, contains the same provision as to medical supplies to be purchased by the Apothecary, as in the previous regulations.

The next regulations were issued in 1840 by J. R. Poinsett, Secretary of War.

The first paragraph is as follows: "The Surgeon General

is stationed at the city of Washington, and is *under the direction of the Secretary of War* charged with the administrative details of the Medical Department, and has complete control of all the officers belonging to it." The words in italics are, except in the designation of the officer, the words used in the 5th section of the act of 16th April, 1862, in giving the power of purchase, &c., to purveyors.

Paragraph 14, p. 3. *The Medical Purveyors will under the direction of the Surgeon General * * * purchase all * (medical supplies.)*

Here we have the same phraseology used in giving power to the Surgeon General under the direction of the Secretary of War, as is given to the purveyors in their office under the direction of the Surgeon General, and it would be exceedingly difficult, it is thought, logically impossible to make a distinction between the two.

In 1850, Sept. 25, new regulations were promulgated by C. M. Conrad, Secretary of War. The first sentence of the first paragraph of these regulations is copied from those of 1840. The second is as follows: "He will assign Surgeons and assistant Surgeons to regiments, posts, or stations, and will issue all orders and instructions relating to their professional duties, *and all communications from them, which may require the action of the Secretary of War, or the General commanding the army will be made direct to him.*"

In the 3d paragraph "He will require from the medical purveyors quarterly accounts current of moneys received and expended by them, with estimates of the funds required for the ensuing quarter; and the returns of articles received and issued with duplicates of the invoices of all supplies put up for, and delivered or forwarded to the several Surgeons or Assistant Surgeons of the army and the private physicians employed.

The 4th section provides still further for the accounting by the purveyors to him, and through him to, and with the Treasury Department.

The 5th that the Medical Directors shall report to him, &c.

Article 7, p. 10.—The Medical Purveyors *will, under the direction of the Surgeon General* * * purchase all medicines, hospital stores, &c., required for the Medical Department of the army, &c.

The 18th provides for the issuing of the supplies so provided by them.

The 19th and 20th for their accounting to the Surgeon General.

Thus stood the law, and the regulations under it, without any material modification of them at the passage of the act of the 16th April, 1862. There are regulations in 1856, '57, and '60, but they do not modify or change those already referred to.

We have seen how far that law in terms changed the law as it then stood in relation to the Surgeon General, and the Medical Purveyors. That it did not in *express terms* repeal it is beyond dispute. Did it effect such repeal by implication?

On this point there is scarcely room for the most severe and accurate criticism to raise a question of doubt. The case of *Wood vs. the United States*, 16 Pet., 362, in the Supreme Court, involved the question of the repeal of a law by implication, and if not conclusive is very instructive in this case. Judge Story delivering the opinion of the Court says, "The question then arises whether the 66th section of the act of 1799, ch. 128, is repealed, or whether it remains in full force. That it has not been expressly or by direct terms repealed is admitted; and the question resolves itself into the more narrow inquiry, whether it has been repealed by *necessary* implication. We say by *necessary* implication, for it is not sufficient to establish that subsequent laws covers some or even all of the cases provided for by it; for they may be merely affirmative, or cumulative, or auxiliary.—But there must be *positive repugnancy* between the provisions of the new laws, and those of the old; and even then the old law is repealed by implication only *pro tanto to the extent of such repugnancy*."

The rule thus distinctly enunciated by the Supreme Court is directly, and especially applicable to this case. We have

here a statute, not creating an office, but providing for an office already existing, and prescribing a selection for that office from particular classes of persons ; not prescribing the powers and duties of the officer, but necessarily implying them as well settled. There is therefore not only no repugnancy between the two laws, but an emphatic though silent recognition of the old law, both as to the Surgeon General, and the Medical Purveyor. Indeed the phraseology of the 5th Section is such as to admit of no doubt that Congress recognized the existence of the former law and regulations then in existence. For in the second sentence of that section they in terms provide new duties for the Purveyor, to be performed under such regulations as shall thereafter be established, recognizing the power of some superior authority to make regulations, and (indirectly) the existence of regulations under which all other duties were to be performed. Not a word is said of regulations in respect to the selection and purchase of supplies and their distribution generally ; as to all such duties as were theretofore imposed by regulations on the purveyors, and which were necessarily subjects of regulation, without which indeed there could be neither system nor accountability. But these new duties were to be performed under new regulations thereafter to be established, so as to make the whole homogeneous and consistent, and to bring under one head all the administrative details of the department.

Every rule of interpretation combines to make the recognition of existing regulations part of the new law. The very phraseology of the act, the power of direction given to the Surgeon General and the power of selection and purchase under such direction are borrowed from the regulations then existing, and give an unmistakable significance to the intention of the Legislature.

But this is not all. The Supreme Court, in the case of *The United States vs. Freeman*, 3 Howard, 364 : have removed all doubt on this subject. They say " the correct rule of interpretation is, that if divers statutes relate to the same thing, they ought all to be taken into consideration in construing any one of them, and it is an established rule of law

that all acts in *pari materia* are to be taken together as if they were one law. *If a thing contained in a subsequent statute be within the reason of a former statute, it shall be taken to be within the meaning of that statute.*"

Nothing could be more apposite to the question under consideration. The reasons of the former statute creating the office and giving to the President the right to define and limit the powers and duties of the officer when the army was small and the country in the midst of peace and prosperity, have ten-fold more force and potency when applied to a condition of intestine war—when a million of men are in the field, and the country is torn with the fury of hostile armies; when the Medical Department is to be reorganized, and its powers and duties multiplied, and so vastly extended, and where the detail of its duties must depend on so many contingencies.

But the opinion proceeds at page 365. "If it can be gathered from a subsequent statute in *pari materia*, what meaning the Legislature attached to the words of a former statute they will amount to a *legislative declaration of its meaning* and will govern *the construction* of the first statute." Here too we find the same reason prevailing; for it is obvious that the Legislature in this last act intended to recognize the existence of regulations by which the Surgeon General was recognized as the head of the Department, having control over the purchase and distribution of the medical supplies.

Again at page 367 the Court says, "The Army regulations when sanctioned by the President, have the force of law, *because it is done by him by authority of law,*" p. 366. "The President sanctioned those regulations, and by doing so, delegated his authority as he had a right to do to the Secretary of War."

It is impossible on these citations to escape from the conclusion that the Act of 16th April, 1862, left in full force the regulations then existing, and the power of the President to modify or repeal them.

Finally the same Court has said in *The United States vs. Eliason*, 16 Pet., 302: The Secretary of War is the regular constitutional organ of the President for the administration

of the Military establishment of the nation: and the rules and orders promulgated through him must be received as the acts of the Executive, and as such be binding on all within the sphere of his legal and constitutional authority.

Taking these rules as our guide, it cannot successfully be denied that the Surgeon General had the power to control the purveyors in their purchases; to *direct* what they should purchase, when they should purchase, from whom they should purchase; and prohibit them from purchasing at particular places or from particular persons. For the abuse of such authority he would be held amenable to the judgment of a Court Martial; for a proper and faithful exercise of it he is responsible to his country.

And such has been the received construction in the Department itself as is abundantly shown in this case, by the evidence in the record of the orders given by the Surgeon General Findley to purchase from the Wyeths and others.

But we go further. We maintain that he had authority in the exercise of a sound discretion to make purchases himself. For the power given him to direct the purveyors in their selection and purchase, implies the power in himself to make such purchases if he shall see fit. They are to be charged with the selection and purchase. But that is subordinate to the power of the Surgeon General to *direct* such selection and purchase, and included in that general authority to him as the less is included in the greater. And such, as is shown in this record by the contracts made by his predecessor, was the received construction of the office at the time of his accession to it. There must be something morally wrong, some bad motive, some corrupt intent, to subject him to trial for the exercise of the power.

The power given the purveyor is intended to be auxiliary to the authority granted to, and the duty imposed upon the Surgeon General, because it would be physically impossible for him in the multitude of the onerous duties imposed on him, to give his personal attention to the procuring of the supplies. It is not and was not intended to be an exclusive and independent power—nor is that required by the policy of the law, or the character of the duties with which they

are charged. It would be inconsistent with all the residue of the power granted to him so to construe it, and it is in all respects consistent with those powers to recognize him as the head having the power to do the thing and them as the agents acting under his directions.

Most of these positions apply with still greater force to the 8th specification of the first charge, as to his giving orders to the inspectors to report directly to him.

In the first place there was no Inspector General till August, 1862. From the time he did report for duty in August, 1862, he made no report to the Surgeon General except an annual report and reports on special duties, with which he was charged by the Surgeon General. Such is the distinct and positive proof on the record.

But this order is merely cumulative. It does not prohibit the Inspectors from reporting to the Inspector General. Its utmost scope is to obtain from them that information which every one must see was essential to the proper discharge of his duties in providing for the health of the soldiers, guarding against the dissemination of disease, administering to the relief of the sick and wounded, and which had previously by tacit custom been sent direct to him by the Inspectors. It is too apparent he had no other means of procuring the material knowledge so essential to the due administration of his office, and without which he would have been justly held to accountability for neglect or incapacity, and it fell within the necessary scope of his powers to require *from all his subordinates* every species of information which they could contribute to enable him to organize and carry out the schemes of medical treatment which daily experience enabled him to ripen and perfect. Moreover it is shown that at the time he so ordered the Medical Inspectors to report to him, the regulations which the law requires to give it effect had not been established.

As though the prosecution had anticipated this construction of the law, and to guard against a failure on that ground, they have followed up the first specification of the first charge by a second specification, charging that the accused not only wrongfully and unlawfully, but also with *intent to favor*

private persons resident in Philadelphia, did prohibit Christopher C. Cox, as Medical Purveyor for the United States in Baltimore, from purchasing drugs for the army in said city of Baltimore.

It is not specified who the private persons were in Philadelphia, thus intended to be benefitted, nor that Dr. Cox was prohibited from purchasing every where else except in Philadelphia, nor that he was directed to purchase from any particular individuals—it is he was prohibited from purchasing in Baltimore. Greater uncertainty, less precision, a broader net for the introduction of loose and irrelevant proofs under the cover of showing the intent have rarely been presented to a court, and the record shows it was availed of to an extent that is almost marvellous. Indeed in no other way could they have introduced the proof they have put upon the record of the arrangement made by the Sanitary Commission to supply the hospitals in and about Washington daily with fresh, wholesome marketing and vegetables, and by which they designed to show a collusion and injurious association to the injury of the patients between the accused and that noble charity. Fortunately for the accused, and the interests of humanity, that effort not only signally failed, and stands rebuked by the evidence of Dr. Abbott and Mr. Knapp, but it is clearly shown by the testimony of the latter that the accused did not favor the purchases in Philadelphia, preferred the market of Baltimore, and did not relinquish that preference until careful enquiry had shown that Philadelphia was more reliable and cheaper.

We come back then to the prohibition to Dr. Cox as the remaining ground of this specification. If we are right in the construction of the law, there is nothing in the evidence which has the weight of a feather in proving the intent charged.

It is beyond dispute that nearly a year before the time named in this charge, the accused had established five principal purchasing purveyorships, of which Baltimore was not one: that in despite of this order, which was publicly announced and of which Dr. Cox had notice, Dr. Cox continued to buy and to buy largely in Baltimore, while the accused was

laying up vast stores of hospital supplies in other cities where they could be more advantageously purchased, and whence they could be more conveniently distributed. That they could be purchased more advantageously in New York and Philadelphia is distinctly shown, both by the testimony of Surgeon J. R. Smith as to Philadelphia, and the concurrent testimony of the bills, and witnesses scattered through the record.

Now no rule is better settled both in the judicial forum and that of common sense and common justice in the application of evidence than that which prohibits the imputation of a wrong motive when a fair and honest one is equally apparent. We are not obliged to resort to the rule in this case, for it is proven that the order referred to in the specification was but intended to carry into effect the general order already mentioned, disregarded by Dr. Cox, to the extent, (as is shown from the tabulated statement of the amounts expended in the several cities certified from the office of the Surgeon General,) that after the promulgation of the order of May, 1862, establishing the purchasing depots, Dr. Cox actually purchased in Baltimore to an amount quite equal to the ratio of the purchases in Philadelphia and New York, taking either the population or the trade of the three cities as the basis of the calculation.

There is then not a shadow of suspicion, much less of direct proof in support of the first two specifications of the first charge, and it is confidently believed the 8th specification is equally groundless.

Before discussing in detail the testimony bearing on the different specifications, it is proper to exhibit the relation borne to the record by the chief witness of the prosecution, Surgeon George E. Cooper, late Medical Purveyor at Philadelphia. Upon his shoulders mainly rests the case of the Government. Smarting under rebukes administered in no hostile spirit, and attributing to the accused reflections upon his conduct with which he had nothing whatever to do, this Ajax of the prosecution came into Court, with a positiveness of statement, and an earnestness of testimony, that rapidly built up allegation after allegation, and his large memory of

events seemed as exhaustless as the constantly recurring necessities of the case.

It gives the accused no pleasure to exhibit this witness to the Court in his true colors, and he will indulge in no harsh words in connection with him, but let the record tell the story of his utter discredit. If in the face of the crushing testimony against him, the Court can by any possibility adjudicate this case on the basis of what he has said, the accused feels that he is simply wasting the time of the Court by a defence, for it will surely be difficult to find in the history of contested cases, an instance in which, in addition to the flagrant self-contradictions of the witness, such a mass of unimpeached testimony has borne a witness to the earth, as in this case.

At the beginning of his testimony, Dr. Cooper volunteers the statement that he received a present, through the accused, of whiskey from John Wyeth, with whom he was not acquainted, and that the accused at the same time asked him to recommend the Wyeths to Surgeon General Finlay. Frank Wyeth swears, on the contrary, that the whiskey was consigned to Cooper by them, through Adams' Express, and received by him, without any knowledge or agency of accused, and that the Wyeths had no need of recommendation to Dr. Finlay, to whom, on his own order, they had in the year previous, furnished over eighty thousand dollars worth of supplies.

Cooper says when he so recommended the Wyeths to Dr. Finlay, he did not know them, and afterward he swears he had formed the acquaintance of the Wyeths while in Baltimore, and before he had his interview with Dr. Finlay on the subject! He says that before he went to Hilton Head, he had known the Wyeths; then says he did not know Frank when he returned! He says that when he went to their store, on his return from Hilton Head, he had a conversation with John Wyeth, which Frank Wyeth flatly contradicts, and gives the conversation that passed on that occasion between *himself* and Dr. Cooper! He says that he bought everything from the Wyeths—"hospital stores, books, instruments, and everything else," all which he sub-

sequently reiterates ; and yet later in the testimony he swears he got nothing but drugs and medicines of them !

He says he examined the liquors and teas at the West Philadelphia Hospital, and they were all bad ; and Drs. Hayes, Baldwin and Rowe, who were the Surgeons in charge, contradict him, and testify that they were all used in the hospital service, for which they were fit, except a small lot of tea !

He says that *in the latter part* of the first week in June, 1862, Wm. A. Stevens brought to his office a sample of blankets of which he said he had 8,000 pairs, and when it became necessary to prove by Paton the value of these blankets, and Paton fixed as the latest day when he could have seen them at Cooper's office, *the second of June* ; he produces a letter from Stevens to him of June 2d, stating that Hayes had the day before sent to him (Cooper) the sample blankets, together with a letter to himself (Stevens) ; while Stevens swears positively he never saw the sample of blankets so referred to ! He swears that on the 15th June he wrote a letter to the accused, which he copied upon paper used in his office at Philadelphia, which copy he produces and puts on the record, and that the original of that letter was put away in a pigeon-hole of his desk, of which he generally carried the key, and to which his clerks had not access ; while not one of his clerks ever saw any such paper in his office, all testifying to his unvarying use of a wholly different character of paper ; they also proving that they had free access to his desk and drawers, and that they were never locked but when he had money in them on Saturdays ! Besides all which Captain Elliot, one of them, and a confidential clerk, swears he had constant access to his desk, and frequently arranged the papers in the pigeon-holes !

He is positive in his recollection that he saw the accused in Philadelphia as early as July 29th, 1862, while Dr. J. R. Smith, as well as the letter on record of the 29th of July, and the telegram of the 30th, establish the fact that the accused had not at the time left Washington !

He says Magruder's requisition in August, was left by the accused at Wyeth's store to be put up and to be received, issued and paid for by him (Cooper,) that accused wrote on

it what was to be put up by Wyeth, and what by himself; and that said requisition was brought to him by Frank Wyeth, and that only after repeated requests: while Frank Wyeth positively swears that the requisition was left with him by accused because he had not time to go to Cooper's office, with instructions to take it to Cooper; and that he did so take it to him within a few hours after he received it, and that the order to furnish was given by Cooper.

He swears that he examined Tilden's Extract of Beef at a time when it is shewn by the proof it was not even manufactured. He swears that he gave no orders to Wyeth for Sulphate of Cinchonia, and we put on the record three!

He swears he traded his horse and saddle to John Wyeth for a horse and buggy, and that he did not return either horse or buggy—he then swears he did return the wagon, because he did not want to be under obligations to Wyeth; and then on re-examination he swears he returned it, because it was part of the bargain!

He swears he was buying of Paton, in June, 1862, ten pound white blankets, at 45 cts. a pound, and the proof is clear that there is no such thing known in the market as a ten pound white blanket, except for family use!

He *admits* that without the knowledge or consent of Dr. Murray, his successor in the office of purveyor, he caused to be copied by one of the purveyor's clerks, a *private letter* to Dr. Murray from Dr. A. K. Smith, which he says he found in his office, and which copy he was also bold enough to produce and put in evidence, because it seemed to bear on the case of the accused.

He swears that in a conversation with Medical Inspector Vollum, he did not use certain language of bitter hostility to the accused. And Inspector Vollum swears he did! He swears that he did not use language about the accused, also shewing his hostility in conversation with Dr. A. K. Smith; and yet Dr. Smith proves positively that he did! He swears that in connection with the letter to him from the Surgeon General of 13th October, he did not use in relation to the accused the words to which he was directly interrogated on cross examination; and Frank Wyeth proves that he shewed him that letter, and speaking of the accused, said,

“here’s a letter from Bill Hammond, the g—d d—d son of a b—h, this goes to the Secretary of War to-night!” and the letter in question *a private letter* to him, at that!

But to repeat all the instances of similar contradictions and misstatements the record discloses would fatigue the Court, and the accused will only add two or three conclusive instances. Dr. Cooper swore with great positiveness that he never wrote a letter to the accused, bearing date June 16th, 1862, and subsequent to his interview with Stevens about the blankets, and that he received no communication from him in that connection, except the telegram of the 17th of June: he swears that in his interview with accused of 3d May, 1862, he was directed to make all his purchases from the Wyeths, and acted in obedience to such instructions, and that on the 31st of July he was instructed to purchase from them upwards of \$200,000 of the requisition for two hundred thousand men, which he only obeyed in part; and yet we produce and put on the record *two letters from the accused to him*—one of date 17th June, and the other 29th July, 1862, and received by him on the 18th June and 30th July respectively, which utterly destroy all confidence in any of the statements so made by him.

As these letters not only bear directly upon the value and credibility of Dr. Cooper’s testimony, but throw a flood of light over three of the principal specifications, we will briefly discuss the evidence by which their authenticity and the fact of their reception by Cooper are established. That they were pertinent and admissible as evidence the Court has in accordance with settled law, already decided.

Now, if we establish that these letters were written by the accused, and that they were received by Dr. Cooper at the time of the endorsements upon them, we add to the contradictions already indicated in the case of this witness and destroy any possible vestige of doubt as to his utter unreliability, because the letter of the 17th June, demolishes his sworn statement that he had written no letter to the Surgeon General on the 16th of June, or any letter in connection with the blanket transaction except those put on the record. That he must have written to the accused on the 16th of June about Stevens and the blankets, is clearly shewn by the

whole tenor of the reply of the Surgeon General of the 17th. It says, "I telegraphed you to-day *immediately* on receipt "of your letter to do as you thought best about Steven's "blankets. His offer to me was at \$5, and I thought the "sample worth the money. I mentioned the price merely "that you should not pay more than that sum for them.— "Are you sure that those he offers at \$4.60, are the same "that he asked me \$5 for."

Now the only letter upon the record and sworn to by Cooper as having been written by him to the Surgeon General on the subject of these blankets, is the infamous one of the 15th of June, in which his bitterness of feeling to the accused finds vent in suggestions of the grossest insult to his superior officer, and which letter was never sent to or received by the accused, and which Cooper has sworn was copied by him on the blue lined paper "in use in his office," but which paper not one of his clerks, as they have proved, ever saw there, or heard of being there, and which copy he put away in one of the pigeon holes of his locked desk, which desk the same clerks prove was not kept locked but open to their free access, and to the pigeon holes of which, one of them, Captain Elliot had access and had frequently assorted the papers in it for Cooper; yet without ever seeing this copy, or anything whatever written upon the same character of paper.

This letter of June 15, said not one word about the price of the blankets, offered to him by Stevens.

That being the only letter then that according to Cooper's testimony he had written to the Surgeon General on this subject, *how was it possible for the accused to know on the 17th that Stevens had offered the blankets to him, Cooper, at \$4.60, and how could the accused have written to Cooper on the 17th, "are you sure that those, he Stevens, offers at \$4.60 are the same he asked me \$5 for?"* and how could he have said further in the same letter, "whenever I send you orders to make particular purchases, it is of course with the full understanding on my part, that if you see any objections *you will refer the matter back to me for instructions,* AS IN THIS CASE."

The very text of the letter shews conclusively that after

Stevens had the interview with him about the blankets, *and for the first time*, Cooper learned anything about their price being \$4.60, *which was on the morning of the 16th of June*, when as he swears himself and Stevens proves, \$4.60 was named to him as the price, Dr. Cooper did write to the Surgeon General, naming the offer of Stevens and referring the matter of the purchase to his superior for instructions.

Immediately upon the receipt of this letter by the Surgeon General, follow in natural sequence, the telegram of the 17th June telling Cooper to do as he thought best about the blankets, and later in the same day this letter, more fully reiterating the substances of the despatch, and giving the views of the accused upon the subject. This is the natural, logical and unavoidable conclusion. But beyond all this, the testimony amounts to absolute proof, for we establish the letter of June 17th to be in the handwriting of the Surgeon General by five witnesses, all conversant with it, and we prove the endorsement of its receipt by Dr. Cooper to be in his handwriting by the same number of competent witnesses, who having been at the time the clerks in his office, and in daily and familiar contact with his handwriting, are the best witnesses that could have been produced on that point; and not resting there, we prove it to have been about the time stated in the endorsement in the possession of Dr. Cooper, by Captain Elliot who swears to that fact.

Against this overwhelming testimony, the prosecution in faint rebuttal, puts on the stand three or four highly respectable gentlemen, who have known Dr. Cooper at intervals for several years past, have had occasional correspondence with him, and who professing to be unable wholly to decipher the endorsement, do not, with the exception of Dr. Laub, express an opinion that it is not his writing, while one of them, Dr. Murray, rather inclines to the belief that it is, and even the expert who was called does not venture to say it is not; and then, "most lame and impotent conclusion," the Judge Advocate produces Dr. Cooper himself to disprove the whole matter, and he denies that he put the endorsement on the letter, but when sharply interrogated by the prosecution as to whether "he ever saw the letter while he was Purveyor in Philadelphia in June, 1862," he

goes on to quote to the Court various passages in the letter as "*being familiar to him,*" with the extraordinary statement that it is impossible for him to say whether he saw them in that letter or elsewhere, "*but they are familiar to me!*" They were familiar to him because they were in that letter, and because when he received it on the 18th of June and endorsed the fact of such receipt on its back, he read them in it, and it is sheer folly in the face of competent proof in a grave issue like this, to deduce from what Dr. Cooper says, anything but a reluctant confession of the fact that he had received the letter in question, which on repeated enquiry by the Judge Advocate he does not venture to deny. Some of these rebutting witnesses found it difficult to read the words of endorsement, because the pencilling had been so much rubbed out, and in this connection we only think it necessary to say that the clerks in Dr. Cooper's office at and before the date of the endorsement, Marochetti, Nesbitt, Hammond, Garigues, and Elliott, are all able to read it sufficiently to pronounce positively that Cooper wrote it.

The letter of July 29, 1862, is also conclusive in its refutation of the testimony of Dr. Cooper.

He has sworn the Surgeon General was in Philadelphia on the 29th of July. The letter shews that he was not. He has sworn that the first and only notice he had of the requisition of July 31st, was received through John Wyeth. The letter embodies a previous notice. He swears that on the 31st July he received instructions from the Surgeon General, to purchase from Wyeth & Bro. by far the largest part of that supply for two hundred thousand men. The letter shews that the accused desired that all articles should be bought from dealers, and states that the system of buying all from one person, which prevailed under the old regime, was not the correct principle, thus positively contradicting the alleged instructions Cooper swears he had given him to buy everything from the Wyeths.

That this letter was written by the accused is also fully established by the witnesses, who prove the letter of 17th June, and that it was endorsed as received on the 30th of July, by Dr. Cooper, is established by proof of his hand-

writing on its back ; by Nesbitt, Hammond, Garigues, Marchetti, Elliot and Bower.

The fact of its receipt by Cooper is further established by Nesbitt, to whom Cooper read it at the time of its receipt ; and by Elliot, who saw it in his possession ; while Cooper himself, on being pressed by the Judge Advocate, to say whether or not he ever saw it while Purveyor at Philadelphia, does not venture, though denying the genuineness of the endorsement, to swear that he had not so seen it, but as in the case of the former letter of June 17th, gives his recollections of a passage from it, which he says "is familiar to him." The rebutting testimony on this point is equally inconclusive as in the previous case, from persons but slightly familiar with his hand-writing, while an examination of the testimony of the expert will shew the small value of his judgment based on comparison.

This witness, it may be remarked, gave his opinion from a recent comparison of the writing of Dr. Cooper, with no previous knowledge of its characteristics ; never having seen him write, and never having corresponded with him. This species of proof is held in very slight esteem by many settled rulings, and its judicial value may be seen by reference among others to the case of "Gurney vs. Langlands," 5 Barnwell vs. Adolphus 930 : where the Court upon argument held that the opinion of Inspectors of franks for the Post-office, *whethèr the writing is in a "natural or imitated character,"* is of little weight, and refused a new trial, asked on the ground of the rejection of such evidence.

The statement of Dr. Cooper as to his usually placing his endorsements of receipt at the bottom of the folded paper, may well enough apply to his public and purely official letters, but as this was not an official one, does not affect the positive testimony referred to.

With this commentary on the character of the evidence of the witness Cooper, and the degree of credit to which he is entitled, we proceed to examine the third specification of the first charge and the evidence adduced in support of it.

The gravamen of that specification is that the accused ordered and caused Cooper to buy the blankets from Stephens, (known in the record as the purchase from Hess, Kessel &

Co.,) he, the accused well knowing they were *inferior in quality*, and that Cooper had refused to buy them.

The only witness in support of this allegation is Cooper himself. Let us examine that testimony, not by the lights thrown upon it from various points to exhibit its value, but assuming that he is a disinterested credible witness.

Cooper says the samples of these blankets had been left by Stephens at Wyeth's, some days before the 28th of May, 1862; he had seen them and had declined to purchase them; that on the evening of 28th May, 1862, he saw the accused at Wyeth's; Wyeth asked him why he did not buy Stephens blankets; the accused turned to him and said, why don't you buy them Dr.? (p. 196.) *I said they are an assorted lot, and I don't want to buy different qualities of blankets to put in the hospitals.*" This is his direct, clear unembarrassed statement; not a word said about *inferior* qualities. But the Judge Advocate follows it up by a direct leading question, prompting the ready answer, did you say anything of the quality? A. "I said I was buying a *different* quality at a comparatively cheaper price." Not satisfied with the answer of his witness, the Judge Advocate presses him still further. Q. Better or worse? A. "Better." Now did he say this to the accused? Did he say he was buying a *better* quality, or a "*different*" quality? He says to the Judge Advocate, "better." But he does not say he said so to the accused. And this is made the more clear by what immediately follows on the same page, (196.) Was anything said about his having shown them to you before? A. "I stated that I had refused to buy them *because they "were an assorted lot."*

But to remove all doubt on this subject, we have but to turn to the cross examination, p. 389, he says, "I did say on that evening to the Surgeon General, that I did not like the blankets, *they were not the kind I was purchasing, and that they were comparatively dear,*" and at the bottom of p. 390, 391, in reply to the question whether anything "was said between the Surgeon General and yourself about the particular prices of the different qualities of the blankets?" He says "there was nothing said about that particularly, nothing but the general remark that they were comparatively dear;" and again, p. 392, my objection "was to their not

being of the kind I was using, and to their being comparatively dearer than what I could purchase." Now the gist of the allegation is that the Surgeon General well knew "*they were inferior in quality.*" The proof is he was told Cooper had refused to buy because he was buying a *different* quality, at a *comparatively* cheaper price, and because they were *an assorted lot*, they were *not the kind* he was purchasing, and were *comparatively* dear," and this repeated again and again. The proof comes far short of the specification. They may have been blankets of an excellent quality; the price may have been a perfectly fair price, every word of the witness may be literally true, and the specification not proved. Cooper says he was buying "*better*" blankets, but he does not say he so told the accused, he only told him he was buying a different kind at a comparatively less price. Nor does Cooper anywhere say the blankets were in fact "*inferior*" in quality, but the extent is he could get those he liked better at a comparatively less price.

This however is all on the assumption that he has correctly reported his interview with the accused, and the direction he received from him. No one is here to contradict him. But there are strong circumstances in evidence tending to discredit the narrative he has given.

The plain import of his testimony is that Stephens had left his sample blankets at Wyeth's and had rather importuned him to buy them; that Stephens was a friend of the accused, and had supported or advocated in his paper "*Vanity Fair*," the pretensions of the accused to his present office; that the accused being in the office at Wyeth's in the evening, Cooper passing through the store to see him, saw Stephens standing there, and passing him by entered the office and remarked that he saw the *Vanity Fair* man down stairs, I said he was the sub-Editor of *Vanity Fair*, and immediately John Wyeth, who was present, asked, "why don't you buy his blankets, Cooper?" and the accused said "why don't you buy them, Doctor?" After some remarks further, the accused said, "it is policy to keep the press on our side," and after some further talk, said "buy them;" the next day Cooper saw Stephens at his office, and told him "I had been directed to purchase the blankets from him." The evident

intention of this ingeniously contrived story, is to create a belief that when Cooper came into the room, John Wyeth had been posting the accused about Stephens blankets, and the accused was ready and willing to oblige his supporter at the expense of the public interest.

The testimony of Stephens, unhappily for this pretty device, testimony which has no contradiction in any part of it, except by Cooper ; coming from a man whose social position is well developed, and whose evidence will stand the severest scrutiny—the testimony of Stephens is destructive of some of its best points.

Mr. Stephens says he had only seen Cooper once before, and was introduced to him by John Wyeth ; that he exhibited the samples of blankets to him, and Cooper did not refuse to buy them, but objected to them as an assorted lot ; that he never objected to the quality or the price. On the evening in question, Cooper asked him to come to his office in the morning ; that he had gone to Wyeth's that evening for medicine, and only saw Cooper as he was passing through the shop. The next morning he called at Cooper's office, and on his entering, Cooper closed the door, asked him to take a cigar and seat, and proposed to put his business through quick ; that he did not say he had been directed to purchase the blankets, or anything of the kind, and the business was closed at once. Stephens says he had never seen the accused but once up to that time, nor did he see him again until long after that time ; his interview was a brief one, and he had never written a line in the paper *Vanity Fair*, or any other, in support of the accused, and he did not know the accused was at Wyeth's when he went there, nor did he then see him.

Here, then, are direct, irreconcilable, contradictions between these two witnesses as to material facts, coloring the whole transaction, both of which cannot stand, and the record is full of conclusive evidence to show which is worthy of credit.

The gravamen of the 4th Specification is, that on June 14, 1862, the accused unlawfully and with intent to aid Stephens to defraud the Government of the United States, instructed Dr. Cooper, Purveyor at Philadelphia, to purchase from said

Stephens 8,000 pairs of blankets at \$5 a pair, which blankets were unfit for hospital use ; and the 5th Specification charges that the accused did on the 16th of June, 1862, corruptly and with intent to aid Stephens to defraud the Government, order in writing said Stephens to turn over to said Cooper, 8,000 pairs of blankets, by which means he induced Cooper on Government account, and at an exorbitant price, to receive 7,677 pairs of said blankets, which he had before refused to buy, and for which Stephens received \$35,314.20.

The allegation of an intent to defraud, in the 4th Specification, is based entirely upon the charge that the blankets thus ordered to be purchased, were unfit for hospital use ; and it is therefore only necessary to shew that they *were* fit for hospital use, and the specification is fully disproved. It is easy to do this, for the respective Surgeons to whom they were exhibited in the presence of the Court, testified to their fitness for such use, and Dr. Cooper alone denies it. We will not, however, stop with this answer to the specification, but proceed to consider it in connection with the 5th, the essence of which is, the alleged fraudulent intent and the positive order to Cooper to receive the blankets, without any discretion on his part.

Let us then discuss the specifications together, for they are not separable in the argument, the order to Cooper in the 4th being part of the transaction, of which the order to Stephens set out in substance in the 5th is but a sequence and the necessary result of the order to Cooper.

To build up these specifications, the prosecution exhausted much time, devoted great labor, and manifested a skill, persistency, and ingenuity worthy of a better cause. It has all been thrown away.

The proof triumphantly vindicates the Surgeon General from the imputations thus cast upon his honor, in protection of which against these aspersions, let it be remembered, he threw open the door to the fullest enquiry, letting in, without objection, much irrelevant testimony, and relying with unshaken confidence upon the integrity of his motives and conduct, which he knew any truthful testimony must vindicate.

The substance of the facts given in evidence by the prose-

cution in connexion with these two charges, may be condensed as follows; it being the purpose of the accused to set them out with entire fairness, and so far as he can, within the time limited for his defence, *in extenso*.

The case then supposed to be made is: that about the 1st or 2d June, 1862, Dr. Cooper, the Medical Purveyor at Philadelphia, received from Mr. Stephens samples of white Union Mackinaw blankets, as they are called, 8 pound to the pair, the price of which was stated to be \$5 per pair; that on or about the 2d June, 1862, he exhibited this sample to Mr. Paton, an importer of blankets in New York, and Mr. Paton says he could have duplicated them for from \$3.25 to \$3.50 per pair, and he thinks they corresponded with the samples which have been exhibited in Court, and which are part of the lot of 8,000 pairs delivered by Stephens under the order of the accused, set out in the 5th Specification; that these sample blankets remained in Cooper's office in Philadelphia until the 13th day of June, when they were taken away by Stephens, and then and up to that time Cooper had refused to buy the blankets; that in the meanwhile Stephens had written a letter to the accused offering to sell him 8,000 pairs of such blankets at \$5 per pair. That Stephens, having taken his samples from Cooper's on the 13th June, transmitted them to the accused by express, and they were received by him on Saturday the 14th June; that Stephens, on the same day he despatched the samples, wrote a letter to the accused, to wit., the 13th June, in which he informed him he had sent the samples by express, and the blankets which he had in his former letter put at \$5 per pair, could now be sold at \$4.60, if he took the whole lot of eight thousand pairs; that on Saturday, the 14th June, the accused, after the receipt of the samples, wrote the two letters or orders set out in the 4th and 5th Specifications to Cooper and to Stephens respectively; the one to Stephens being addressed to him at his residence in Girard street, Philadelphia, although in the letter to Cooper, he had given Cooper, Stephens' address to his box in the post-office, New York; that Cooper received the letter of the 14th on Sunday, the 15th June, and immediately wrote to the accused a letter, of

which a copy is put in the record ; on the morning of the 16th June, Stephens called upon Cooper at his office, showed him the letter of the accused, and told him the price of his blankets was \$4.60 per pair ; Cooper agreed to receive them under the order of the accused, given to him, of the 14th June ; they were received by him, on or after the 21st June ; the bills were certified by him to the Surgeon General's office, and paid without his knowledge ; that he never received from the accused any reply to his letter of the 15th, unless the telegram of the 17th June, telling him to do as he pleased about the blankets, was a reply, and that came after the transaction was closed ; and that all the letters, to wit : Stephens' first letter to the accused ; his second letter of the 13th June ; the letters of the accused to Cooper and Stephens of the 14th June, and Cooper's said letter of the 15th June, are not to be found among the files or records of the Surgeon General's office.

This unquestionably creates a strong suspicion as to the whole transaction. The case made by the accused is not dependent wholly on the fading or treacherous memory of witnesses, but resting on contemporaneous writings, forming links in the chain of the transaction, and explaining much that is otherwise mysterious, sustained and welded together into a complete chain by the oral testimony of living actors in that business, leaves no room to doubt that so far as the accused is concerned he is free from a shade upon the perfect integrity of his connexion with the matter.

The answer is :—

It is proved by the letter written by Stephens to Cooper, and produced in evidence by the prosecution, that the sample blankets received by Cooper on the 1st or 2d June, 1862, were sent by Hayes, and not by Stephens. They were not samples of the lot of 8,000 pairs subsequently sold by Stephens on the 16th June. It follows that Mr. Paton did not see a sample of this last lot. Stephens swears he himself never saw the samples so sent by Hayes.

It is proved by Vail, Spaulding, Andrews, Hayes and Townsend, that the samples of the blankets so sold on the 16th June, were not delivered to either of the brokers until

four or five days before the sale was completed. It is proved by Stephens that he wrote to the accused his first letter before he saw the sample, and he received the sample on the 12th June, that he transmitted that sample by express on the same day from New York to Philadelphia, and the next morning, the 13th June, took it from the express office himself, and carried and exhibited it to Cooper, and then failing in making a sale to him, despatched it by express the same day to the accused at Washington : that on the evening of the same day he wrote the letter of the 13th June, and put it into the lamp post-office after the hour of delivery, so that it could not have reached Washington before Sunday, the 15th June.

It is needless to enquire how it is, wherefore, when, by whom those original letters were taken from the office of the Surgeon General. We do not know. That the office was tampered with by some one is shown by Dr. Smith's evidence and by the fact that letters were taken from it. Two of these letters are before the Court, one produced by the Judge Advocate from the papers of Surgeon Laub, the other produced by the accused, and coming to his possession as mysteriously as that did to Surgeon Laub. The authenticity of the papers is beyond dispute. We will presently see this is not all of the proofs. It is charged, and the attempt has been made to show that these blankets were unfit for use in hospitals ; had a foul and offensive odor, and were purchased at an exorbitant price.

The proof on these points is equally decisive. As to their unfitness for hospital use in their present condition, a sufficient and complete answer has been already given. But Dr. Cooper and Mr. Guillou, to whom he says he exhibited them, say the odor was very offensive when they were received. To this we reply, Dr. Cooper is the only witness to show they were the same blankets as those of which Mr. Guillou has testified : the clerks in Dr. Cooper's office, those who received them when they were first delivered, and those who delivered them when they were disbursed ; who marked each bale so disbursed, who were daily conversant with them while they remained in the purveyor's office ; to wit : Mr.

Garrigues, Elliot, and Nichols; Mr. Spaulding, who sold them, and Mr. Townsend, the broker, who purchased them, and Stephens, who searched for the four missing bales in the office of the purveyor, all concur in an emphatic denial of such offensive odor. It cannot be true that they had such odor.

The price has been assailed. The answer is a mass of overwhelming proof to show that such blankets were exceedingly scarce in the market; that there was not more than one other lot like them, and that was at Watson's; the lot afterwards purchased by Townsend; that the price at cash sales were rapidly rising in the market, and we have the concurrent testimony of Carville, Vail, Spaulding, Toy, and the several brokers who were familiar with the transaction, that the sale to the Government at \$4.60 per pair at that time, upon the terms in which it, the Government, was in the market was a fair sale. The weight is shown to have been what is purported to be—eight pounds to the pair.

Moreover, it is in evidence that Medical Director King had received instructions to prepare largely extended hospital accommodations in Philadelphia, for the sick and wounded from the inhospitable and bloody fields of the Peninsula, that Cooper's supply of blankets was short, and the demand communicated to him by Dr. King was pressing. There was no time for the accused to wait. His duty and his humanity called upon him for prompt and energetic action. He received an offer of 8,000 hospital blankets in a rising market at \$5 per pair; he knew the urgent need of the service—he has sworn he never received, and he now solemnly avers he never received that letter of the 13th June; he acted at once, yet always as he said to Cooper in his letter presently to be noticed, subject to the considerate action of the purveyor, he ordered the blankets, and has not for a moment regretted it to this day, but justifies and vindicates that order.

A labored effort has been made by the prosecution in connexion with these two charges to show that Stephens realized a large profit from the sale of this lot of 8,000 pairs of blankets. The only purpose such a fact could serve, would be to show the price was exorbitant. This Court has no right to sift the transaction for any other purpose, and that

only so far as it may tend to show the Government was defrauded. Nor can it be of any service to the prosecution, if the evidence stops here. For whatever profits Stephens may have realized ; however exorbitant the price may have been ; however fraudulent the scheme by which such exorbitant price was realized, unless they go further, and show the accused so associated in it that they can say these orders were given for the purpose—with the intent to enable Stephens to perpetrate this fraud—they cannot impeach the accused, or find him guilty of these specifications. And he challenges an enquiry to that point, into any fact which shows complicity by him with any of the parties concerned in that sale. He has endeavored, with the aid of counsel, to discover any fact not fully and completely explained which so connects him with Mr. Stephens as to show any guilty knowledge on his part of irregularity on the part of Stephens, or anything but a fair business transaction. Indeed, there is nothing to show that he knew until long afterwards, that the sale had been completed.

To make this matter more clear, it is proved by Mr. Stephens, and by the letter of the accused to Cooper of the 17th June, that he had no personal acquaintance with Stephens beyond a brief interview with him in the winter of 1861-2 ; that Mr. Stephens was backed by Dr. Hartshorne, of Philadelphia, a man of known high repute, who was, in the language of the accused in that letter, responsible for him, and notwithstanding that, he in terms authorized Cooper not to take the blankets if he did not like them. So far his personal connection with the matter.

But in point of fact, the testimony of the New York merchants and brokers, and of Adolph and Toy, of Philadelphia, take away from the sale every taint of exorbitant price or fraudulent design. The transaction itself shows that Stephens bought at \$4 cash, when the importers would not have sold to Government on credit ; that he had to pay two and a half per cent. for his money, an additional one per cent. for the delay, and also the costs of transportation ; to lose the value of the wrappers, and take two-thirds of his payment in certificates of indebtedness at a discount. The rates at that time ranged from 96 to 98, so that he realized

on this purchase rather less than ten per cent., and had to take the risk of waiting months for his pay. The result of the operation shows no exorbitant price; while there is nothing from which it can rationally be inferred, that the accused was actuated by any wrong motive in giving the order which he did.

The remaining point of this 5th Specification is, that in consequence of the order to Stevens from the Surgeon General, to turn over the blankets to Cooper, he Cooper was compelled to receive them, though they were at an exorbitant price, and he had previously refused to buy them, thus depriving him of that discretionary power which as Medical Purveyor it is charged he was entitled to exercise. Now was Cooper so robbed of discretion in the premises, or was he in a position to receive or reject the blankets in question, as he thought fit? Unquestionably the latter is proved to have been the case. We will demonstrate it. The proof is that on the morning of June 16th, Stevens presented to him the order, or memorandum from the Surgeon General directing the blankets to be turned over. In this both Cooper and Stevens concur. The transaction began on the 14th June, with the communication from the Surgeon General of that date. It was a continuing transaction on the 16th, when the conversation between Cooper and Stevens occurred.

Stephens swears he had no such order as Cooper has described; the letter of the accused of June 17th also shows it, and it is not true that the interview closed the transaction. Dr. Cooper knew that it did not, for he has sworn that *if the blankets had not corresponded with the samples, he would not have received them,* and he knew just as well as do the members of this Court, that up to the point of actual inspection and receipt, he not only had the right the Government invariably reserves to itself to reject an inferior article or one that does not come up to sample, but it was his duty to do so, and it is in proof by Cooper himself, that the delivery was not until the 21st of June, thus giving him five days from the interview with Stevens and the delivery of the goods for action as to their receipt or rejection. Five days pregnant with information and instruction to Dr. Cooper, for as we have already clearly shewn, he

wrote to the Surgeon General on the 16th, after Stevens had told him the price was \$4.60, and referred the matter to his superior, as the reply of the accused of the 17th clearly shows; and then on the morning of the next day, the 17th, he got a telegram from the Surgeon General telling him "*to do as he thought best about the blankets,*" which clothed him with absolute discretion to reject them, even if he had been previously directed to purchase or receive them, and this was followed by the explicit letter from the accused of the 17th, also, which he received on the 18th, in which the Surgeon General asks him if he is sure the blankets offered at \$4.60 are the same as those offered the writer at \$5—*tells him that whenever orders are sent him to make particular purchases it is of course with the full understanding that if he sees any objections to the purchase he is to refer the matter back to the Surgeon General for further instructions as he had done in this case; that the Surgeon General did not know much about Stevens, having never seen him but once in his life—and closes with this absolutely conclusive passage, "IF YOU DON'T WANT HIS BLANKETS, DON'T BUY THEM AT ANY PRICE!"*

In the face of such proof as this it is worse than idle for Dr. Cooper to talk about the Surgeon General having taken the matter out of his hands, and the fact that he had complete discretionary power in the premises is entirely too plain to require further discussion.

The next specification in order is the 6th, the points of which are, that on the 31st July, 1862, the accused knowing that the Wyeths had before that time furnished the Medical Purveyor at Philadelphia supplies inferior in quality, deficient in quantity, and of excessive price; did corruptly, unlawfully, and with intent to aid said Wyeth & Bro. to furnish further supplies, and fraudulently realize large gains therefrom, give Dr. Cooper, the Purveyor, an order to fill up his store houses so as to have constantly on hand, hospital supplies for 200,000 men for six months, and then and there directed said Cooper to purchase a large amount thereof to the value of \$173,000, from said Wyeth & Bro.

As to the guilty knowledge of the accused involved in

this specification, Doctor Cooper is the sole witness, except so far as Keffer may be considered auxiliary to the extent of his testimony as to the single bottle of alcohol opened in his presence, when in the true spirit of a hawker he was trying to vend his own wares, and as to the luminous chemical suggestions he throws out upon the nature of fusel oil, and the tests by which its presence is distinguished, gathered from his workmen in the back shop.

Having sufficiently examined the value of any testimony given by Dr. Cooper, we content ourselves with calling the attention of the Court on this point to the letter to him from the Surgeon General of date July 29th, which he is shewn to have had in his possession at the time specified in the allegation, and the contents of which are in direct accordance with the suggestions Cooper says he made at that time to the Surgeon General, and equally in conflict with the oral instructions he says he *then* received from him. On the other hand Cooper admits that although previous to the personal interview with the Surgeon General of July 31, he had knowledge of these alleged deficiencies as to the quantity and character of those supplies, and their excessive price, he had never made to the Surgeon General any communication on the subject, oral or written, and although the Regulations require the Hospital Surgeons to make reports to the Purveyors of any such deficiency, he himself had not received a single official complaint from them, except from the Chester Hospital in regard to some of the liquors. It is not to be credited that at that interview he communicated to the Surgeon General the fact and extent of such deficiencies as he has stated, nor does Keffer sustain his statement, his testimony being confined to the bottle of alcohol opened in his presence, the short measure of which is clearly explained by the testimony of Mr. Harrison Smith, Dr. A. K. Smith, Mr. Frank Wyeth, and Hughes, who bottled the alcohol.

We are however not obliged to rest here; for the prompt action of the Surgeon General in sending first, Inspector General Perly to investigate the affairs of the Medical Purveyor's office at Philadelphia, and subsequently Surgeon Coolidge, to examine into the character of the medical sup-

plies in the Hospitals and Purveyor's office at that point, the moment complaints were made to him, is a pregnant circumstance to show that such information was not communicated to him by Cooper at the time charged in the Specification.

We say next that in point of fact, the defects in quality or deficiency in quantity of any of the supplies furnished by Wyeth & Bros., so alleged, are shewn by the proof to have been nothing beyond the isolated accidents inseparable from the execution of such large orders, which involved in their putting up great labor and minute details, under the pressure of circumstances demanding the utmost despatch in their preparation and delivery.

As to the character and quality of the drugs, medicines, and medical supplies furnished by this house, the concurrent testimony of every Surgeon who has been examined, viz: Dr. J. H. Thompson, who used them in the Burnside Expedition, when the purchase of them was directed by Surgeon General Finlay—Surgeons Magruder, J. J. Hayes, A. K. Smith, L. A. Edwards, R. O. Abbott, L. Baldwin, J. B. Rowe, E. P. Vollum, John M. Cuyler, Wm. Thompson, R. H. Coolidge, J. Hopkinson, J. Letterman, and Drs. Murray and Cox, Medical Purveyors, Mr. Farr, of the house of Powers & Weightman, who furnished them by far the largest part of their medicines, and who also put them up according to the supply table, Mr. Locke, who made the alcohol they supplied, and the high reputation of which is established by the standard authority of Wood & Bache's Dispensatory—and Mr. Harrison Smith, who purchased their liquors, teas and bottles, establishes the high character of the supplies they furnished.

Add to this, the admitted fact, that prior to the 31st July, no official complaint was made to the Surgeon General, of the quality or character of their medicines or the manner in which they were put up, it cannot be doubted that the Messrs. Wyeths dealt in entire good faith with the Government; while the isolated cases in which defective articles were found in the large requisitions they furnished, are shewn to have been met by them the moment their attention

was called to the matter, by a prompt replacement with unexceptionable articles.

It may be as well at this point to dismiss with very brief comment, the matter of the whiskey ordered by Surgeon Vollum, which Dr. Cooper had put into tin cans through a misapprehension of the order of Dr. Vollum, although with the whole transaction the Surgeon General had nothing to do; although many days of valuable time were wasted by the forced and wearying presentation of the subject to the Court.

To this branch of idle enquiry the accused interposed an objection, but at once withdrew it on the assurance of the Judge Advocate that he was to be connected with the enquiry by subsequent proof, which pledge was never verified; the accused being in fact wholly unconnected with the matter, as seemed sufficiently clear at the time, his utter ignorance on the subject continuing down to November, six months after the transaction, when his attention being called to the condition of some of the whiskey that had found its way into some of the hospitals at Washington, he ordered it to be analysed and withdrawn from use, except for external application. The Court cannot have forgotten with what gusto the Judge Advocate presented to his witnesses the unpleasant looking mixture he had extracted from one of these cans, ferreted out from the recesses of a hospital, carefully sealed up, and guarded in its transit thence to the cupboard of the Reeder Commission—where it was stowed away with the odds and ends of that Board of Investigation, and the hat-boxes of the witness Brastow, until it came to be submitted to the critical analysis of Professor Breed, who in his episodic attention to other pursuits for several years, seemed to have forgotten his Chemistry.

Let the Court, if it really deems it necessary, contrast with all the fanciful hypotheses and violent strainings, after undiscernable poisons in this whiskey, the complete exhaustion of the whole story of its condition when it was shown to the Court, developed in the masterly analysis of Doctor Woodward and Professor Schaeffer, each word of whose testimony demonstrated their right to be considered Chemists,

and that they had fully and patiently evolved from the turbid liquid the evidence of its original soundness, good quality and perfect freedom from adulteration, and the proof of that chemical action which beginning with the Tannic acid imparted to the whiskey by the wood of the barrels in which it was originally put, resulted in the destruction, to a great extent, of the Fusel Oil in it as in all whiskies, and left it as a necessary result of the oxidation that ensued, in the peculiar condition in which the Court enjoyed the privilege of seeing it.

So far the defence has been limited to the evidence of the order having been given by the accused to purchase the alleged large amount from the Wyeths, his knowledge of the defects complained of, and the fact whether such complaints were founded in fact, if any such were made.

But there is another point founded on this allegation which he feels bound to notice before leaving it, and that is the amount of that requisition.

In asking the attention of the Court to that matter he takes the liberty to refer to a public document, part of the history of the country, to show that such large orders for supplies were not made in the dark, nor from any corrupt motive, but as part of his immediate duty, looking to the end of having supplies secured before the price of every article should have been increased by the necessary course of events, and that he might have them ready for every emergency.

In his report to the Secretary of war, date 10th November, 1862, published among the documents transmitted to Congress, at page 9, he says: "large depots of medical supplies have been established at New York, Philadelphia, Baltimore, Fortress Monroe, Washington, Cincinnati, Cairo, St. Louis, and Nashville, and have proved of incalculable advantage to the sick and wounded. Moreover, large sums have been saved by the accumulation of stores before the recent advance in prices took place."

It is in evidence in this cause, in repeated instances, undesignedly stated by Dr. Cooper, and confirmed by other witnesses, and it is obvious to reason that such large depots

were absolutely necessary. It requires but a glance at the supply table for three months for a hundred men—still more to cast your eye on the very requisition in controversy, and see the vast amount called for by it, and the manner in which those supplies were required to be put up, in small phials, in safe packages, to satisfy any one, that it would require a long time and great care and labor to prepare even for a thousand men. In this city alone and its surroundings there were in the months of July and August, 1862, nearly 20,000 men in hospital: the struggle between Lee and Pope was going on, and it would have been such gross neglect of duty as would have justly subjected the accused to the censure of his superiors and the public if he had failed to make ample provision for impending events. But this is only a limited view of the matter. The West and South and South-West, all were alive with the evidences of coming conflicts, and they also were to be provided for. Every article in the supply table was rising daily in the market, and on all accounts it was his duty to exercise a wise forecast in making ample provision, so that no one should suffer by his neglect and the treasury would be relieved by his prudence.

Here again we have a motive tending fully to explain the amount of that requisition, a motive which his judgment, his humanity and his patriotism could not overlook.

If from his past experience and information as to the character, quality and quantity of the drugs, medicines and hospital supplies furnished by the Wyeths; the promptitude, skill, energy and despatch with which they had theretofore furnished them; looking to the threatening aspect of the armies in the field, and knowing the condition of the hospitals; anxious to be provided in time for every contingent event, and that the supplies should be on hand to meet every hurried demand, he had given directions to have the larger portion of that order filled by them, there would have been no just or reasonable ground of complaint in a military point of view, nor room for suspicions as to his integrity, much less would it afford a scintilla of proof of a corrupt motive. When the pressure of circumstances so momentous as those surrounding him furnishes a reason for his conduct,

it would be not only unjust but cruel to impute to him a bad or dishonest motive. If we can see in this order any other than a desire to benefit the Wyeths ; if we can see a high sense of duty and responsibility underlying the whole transaction ; if we can see the wounded and the dying on the battle-field, and the sick and wasted in the hospitals stretching forth their hands and crying for help, and the officer charged with the duty has made ample provision for them in anticipation of their needs, we should not stop to criticise too severely and ask whether in furnishing those supplies he did not mean to help a friend. The burthen of proof is upon him who alleges such a bad motive, and he must put it beyond a peradventure. There must be no room to doubt. The act must be so characterized as to leave no question as to the motive being wrong. If it were not so, God help every officer who does not carry with him a glass in his bosom by which his motives are to be seen, for by his acts he is not to be judged.

It is denied distinctly, emphatically, positively, in the detail and in the aggregate, by the accused, that any base or sordid motive, any desire to favor a friend at the expense of his duty entered into or formed any part of this order for the supplies ; it is denied with equal directness and distinctness, that he gave any direction to have any particular part of it supplied by the Wyeths ; it is denied that he received from Dr. Cooper the information which he says he then gave as to the failure of the Wyeths in their former transactions either in the quality, weight, or quantity of their supplies ; and at the same time he maintains that if he had received such information from Cooper, not vouched for by any report from any officer having charge of those drugs, medicines and supplies, and relying upon his own personal knowledge and the information of others as to the manner in which they had theretofore filled their contracts, he would have been fully justified in giving the order, and the proofs in this cause already given would have sustained him in so doing.

The 7th specification of this first charge gives rise to the question as to the true construction of the Act of the 16th

April, 1862, as well as that of the motives of the accused in himself ordering extract of beef from the Wyeths. It is that *contrary to the provisions of that act he did corruptly and unlawfully direct Wyeth & Brother to send 40,000 cans of their extract of beef to the different places named in the order, and send the account to the Surgeon General for payment; and which extract of beef so ordered was of inferior quality, unfit for hospital use, unsuitable, and unwholesome for the sick and wounded in the hospitals, and not demanded by the exigencies of the public service.*

The specification is skillfully drawn. It exhibits the ingenuity of the special pleader. Yet if it were subjected to the crucible of the courts administering the common law, it is fatally defective, and on demurrer would be pronounced bad. It includes a number of distinct offences. So much so that it defies the ingenuity of the accused to determine what specific allegation he is to meet. Is it that every purchase made by him since the enactment of the law is wrongful and unlawful? Is it that to make it unlawful and wrongful it must be corruptly made? Is it, in the particular case, that the article purchased was inferior in quality? or that it was unfit for hospital use? or that it was unsuitable and unwholesome for the sick and wounded in hospitals? If it shall appear from the law that he had the power to purchase; that the article was sound, wholesome, admirably adapted to the battle-field, to sudden emergencies, to a thousand cases, but *not suited for hospital use*, can the specification be maintained? or must all the averments of the specification be proved? or is proof of any one or more of them sufficient to sustain a conviction?

In some circumstances these would all be material questions for the consideration of the Court, and the accused might confidently, as he does, insist that every fact thus severally and specifically alleged, not by way of aggravation, but as constituting parts and parcels—necessary ingredients in the offence intended to be assigned must be proved to the satisfaction of the Court; that they in combination constitute the offence charged, and cannot be found in part in order to sustain the specification.

Not waiving any one of these points of objection, but relying on them, the accused, as he has done throughout this case, meets the accusation in each and every of its particulars, satisfied that the more rigidly his administration of his office, and all his acts connected therewith are examined and criticised, the more triumphant will be his acquittal of any charge or allegation affecting his honor as a man, or his duty as an officer.

The fact that he gave the order set out in the specification is not disputed. It was done, as all his other acts were done, in the conscientious discharge of the duties imposed on him by law. His construction of that law has been given in part; but that construction does not fully cover the case now put.

The assumption on the part of the prosecution is, that he is thereby prohibited from making any purchase; that *all* selections and purchases are to be made by the Purveyors; and every purchase made by the Surgeon General is wrongful and unlawful.

It is a grave question. It deserves to be considered with all the care which its importance in this particular case requires; but still more in its bearings on analogous cases in other branches of the service.

The statute does not say, in terms, *all* purchases shall be made by the Medical Purveyors. The words are: "The Medical Purveyors *shall be charged*, under the direction of the Surgeon General, with the selection and purchase," &c. They are *to be charged*. The *law* does not charge them. The law does not say they are "*hereby charged*," but *shall* be charged. By whom are they to be charged? They are to be charged under the direction of the Surgeon General. The words of the statute do not in terms prohibit a purchase by him who, as the head of the office, is to direct another. Nor do they, by necessary implication, exclude the Surgeon General himself from purchasing. They do exclude the Purveyor from purchasing of his own volition. He must have the direction of the Surgeon General. And so in regard to the Commissary and Quartermaster's Department, and the various other bureaus of

the several principal branches of the executive authority. In each and all of these the power is given to direct purchases to be made; to appoint agents for that purpose; to devise checks and balances to secure a proper accountability. Here the only difference is, that the law points out the agents to be employed, so that neither Inspectors, nor Directors, nor Surgeons in the line or in hospitals, shall be charged with the duty of selecting and purchasing, unless they are also Purveyors.

An illustration may be drawn from the laws empowering the Quartermaster General, and the Commissary General and the head of the Ordnance Bureau to make contracts. They all make contracts subordinate to the superior authority of the Secretary of War; they all delegate the authority to their subordinates to make contracts or obtain the necessary supplies. Undoubtedly contracts so made are valid contracts, and would bind the Government, although there may be no statute authorizing them. Nor could the officer making them be charged with a wrongful and unlawful act, and subjected to a Military Court, unless it could be further shown that they were corruptly made. And so an officer in the field commanding an army, or having a detached command, has and must have, by virtue of his office, power to make contracts for supplies, with which the Quartermaster's Department is charged by law. The illustrations are numerous, and recur readily to the mind of every one practiced in military affairs. But they are none of them strictly analogous. None of them are cases where, by the express words of the law, a particular subordinate officer is to be charged, under the direction of his superior, with power to purchase, and the discretion is left to the superior. Such is the case here.

And the whole scheme and policy of the administration of the Medical Department, as developed in the act creating the office of Surgeon General, and the laws and regulations subsequent to it, and the practice of the office grown into a usage, as shown in the proof, are consistent with this view. He is the administrative officer. The rest are subordinates, given to him as aids to effect the purposes of his office. He

cannot multiply himself, so as to carry out all the details of the service, but he is held accountable to the country for a faithful supervision of those subordinates, and a wise, prudent, and faithful discharge of his own powers and duties. Among these duties none is more important than the preparation, in due time, of fitting supplies to meet the constantly recurring demands of his office. The Purveyor is given to him for that purpose, but he is made entirely subordinate, without power to make a purchase except under his direction, and no Purveyor, as we have seen, can make a purchase unless he is "*charged*" with that duty, under the direction of his superior. It follows that as the duty of providing the supplies exists, and is imposed on the Surgeon General by virtue of his office, and the regulations of the President, and the usages of his office, he must have the power both to purchase himself and to *charge* a Purveyor with that duty under his direction. The power then exists, and he may lawfully exercise it himself or *charge* a Purveyor with it.

If the power exists, and whether it does or not, we proceed to examine the manner in which, and the circumstances under which it was exercised in this case. And if ever the exercise of a questionable authority was justified or excused, the evidence discloses a condition of things which affords justification and excuse to the accused for the acts set out in this specification. If the Court shall doubt as to the power of the accused, exercised as it has been by his predecessors, without objection or complaint, it is far better to leave the remedy to Congress than by their judgment to subject him to censure, if he has acted in good faith, believing he had the power.

The remaining questions under this specification are: Did he act corruptly? Was the extract of beef, so ordered by him, *inferior in quality*? Was it *unfit for hospital use*? Was it *unsuitable* and *unwholesome* for the sick and wounded in the hospitals? Was it or not demanded by the exigencies of the public service?

The history of the introduction of this article into the service of the army is exceedingly well given in the testi-

mony of Mr. Coleman. The origin of its manufacture by Wyeth is also very clearly shown in the proof. There was at the time this order was given, no other preparation of the like kind known to the Department, but that of Mrs. Murringer. Such is the concurrent testimony of all the witnesses except Dr. Cooper.

It had been tried on the Peninsula, and its virtues in part ascertained, and antecedent to the order in question the bloody field of Bull Run had demonstrated the value of the preparation, and the Court cannot have forgotten the testimony of Inspectors Coolidge and Vollum, whose simple and touching narratives of its use on that occasion, brought so vividly to view the picture of the thousands of wounded and suffering soldiers, who, after the sad catastrophe of that battle, were in the absence of almost all other sustenance nourished and kept alive by the timely supply of this very article, administered to them for successive days by these witnesses, who were thus enabled to save, as they have sworn, the lives of thousands of our soldiers not simply by the intrinsic nutriment of the extract, but because of the peculiar facility and rapidity of its preparation for use.

Such testimony is sufficient of itself to justify its purchase by the accused; but the proof in its favor goes much beyond this; for although the prosecution consumed many days, and questioned a score of witnesses upon this point, the only instances in which unfavorable testimony was elicited, were the cases of Doctor Brinton, who tried a can of it on the road to Gettysburg and thought it did not agree with him, but who nevertheless testified that he issued large quantities after that battle, to the amount of thousands of cans, and never heard any complaint, save from one Surgeon, who thought some of the cans he received were defective; and Surgeon Perrin, who wrote from Cincinnati that twenty hundred and forty cans of the lot sent to him were decomposed, assigning therefore as his reason, a test, which both Drs. Woodward and A. K. Smith, clearly proved to be entirely valueless. Some Surgeons were also examined, who preferred beef tea freshly made for use, in permanent

hospitals, but who had no personal experience of this particular article, and whose speculative opinions do not weigh against positive proof. On the other hand Dr. Weir Mitchell, of Philadelphia, one of the most accomplished physicians in the country—Surgeons Brewer, Hoff, A. K. Smith, Cuyler, Thompson, Hopkinson and Letterman, besides Surgeons Coolidge and Vollum, all bear witness in unequivocal terms, from their own experience, and some of them from an extensive use of it, to its good quality, its great facility of preparation, its highly nutritious elements, and the fact that it is a most valuable preparation for Field Hospitals, and the exigencies of the battle field, while several of them even prefer it to the fresh tea for permanent establishments.—Surgeon Brewer was conclusive in his proof of its efficacy, and Surgeon Hoff testified that in his experience on the Mississippi where he issued large quantities, he could not have got along without it. Purveyors Creamer and Rittenhouse, who issued thousands of cans from St. Louis and Cincinnati never received a complaint from any quarter either as to its value or condition. Additional evidence in its favor is also furnished in connection with the identical lot of which Surgeon Perrin too hastily complained, in the testimony of Inspector Coolidge, who tested in his own family, and with a wounded officer in this city, a number of cans forwarded by Dr. Perrin by direction of the Surgeon General for examination.

Such proof as has been thus briefly summed up, must settle the question of the allegations of its inferior quality, unwholesomeness, and unfitness for use with the sick and wounded.

The remaining question is, whether it was demanded by the exigencies of the public service. The prosecution, with all the power of the Government at its disposal, for the establishment of its theory, has been unable to discover more than a few thousand cans remaining on hand in the storehouses at Philadelphia, Washington, Cincinnati and St. Louis, and that residuum made up in fact not only of Wyeths and Bowers', but of Tourtellot's, Tilden's, Ellis', and Mrs. Murringer's—a supply which may be exhausted by the con-

tingencies of momentarily impending conflicts, whose sad catalogues of sick and wounded will we think, sufficiently vindicate the wise prevision of the Surgeon General, in providing for contingencies only too certain to follow in the train of a bloody and protracted war.

And here allusion may be made to the fact that in order to obtain for his department medical supplies of certain purity and less price the accused, more than fifteen months ago, established manufacturing laboratories in New York and Philadelphia. Does this look like favoring private persons?

The second charge is of conduct unbecoming an officer and a gentleman, and the only specification is that the accused on the 13th October, 1862, wrote a letter to Dr. Cooper, stating that he, Cooper, had been relieved as Medical Purveyor at Philadelphia, because among other reasons Major General Halleck requested as a particular favor, that Surgeon Murray might be ordered to Philadelphia, which declaration of the accused was false.

There is scarcely any part of this prosecution which more clearly shows the venom of the principal witness brought to sustain it than this. He avails himself of a private letter, written in the kindest spirit, and in the confidence of the relations which the whole record shows had up to that time existed between himself and the accused, to inflict a deadly wound upon his honor, of a character from which every gentleman shrinks, and which repels every one from him, whether in his official or his social relations. There is in this a degree of malignity, and a want of high toned principle exhibited, which alone should make us look upon all his testimony regarding the accused with the gravest suspicion.

A charge thus made with a specification so distinct, should be supported by the clearest, and most direct evidence. There must be no want of recollection, no doubt, no hesitation, no room for misapprehension in the proof brought to support it. The memory of the witness who is assumed to sustain it must be as distinct and clear as if the fact had been recorded at the time, and if possible it should be corroborated.

ted by some circumstance. The distinct affirmation of a fact made by an officer should have the same weight with his peers, (although not admissible as evidence) on his trial, as if he had sworn to it, for it may be assumed without fear of successful contradiction that in ninety and nine cases out of a hundred the officer who would make such a statement in writing would swear to it.

We have in this case the averment of a fact in writing, made by the accused at the time of the occurrence—made without any adequate motive to say what was false, yet made under all the solemn obligations which can bind a man of honor, holding a high rank in the confidence of his Government, and when the means of contradiction and the danger of discovery were both convenient and certain. For he knew the temper of the man to whom he was writing, and his promptitude and energy when he was aroused.

Now after the lapse of more than fifteen months passed in the midst of a pressure of public affairs, tasking his mind and memory to their utmost capacity of endurance, General Halleck is called to prove that he made no such request as the accused deliberately said he had made of him in October 1862. General Halleck, as was to have been expected, does not contradict him. He says at page 676, he wrote a letter about the 1st October, 1862, to the accused in relation to Surgeon Murray, which letter is put on the record at p. 677. At p. 678, "*to the best of his recollection,*" he says, he did not make any other communication to the accused upon that subject, not even orally. This is the whole of it. This is no such denial as is absolutely required to *disprove* the assertion of the accused. The prosecution has undertaken to prove that assertion to be untrue, and they must prove, *not that the witness does not recollect, but that he does recollect, and recollecting positively denies the fact.*

But this is not all. On the same page Gen. Halleck says he received a communication from Dr. Murray; "*to the best of his recollection,*" [the very words used in chief,] he said in a private letter, "I should like to go east on hospital duty." I do not think he designated any place; and I wrote the letter to the accused immediately after receiving Dr. Murray's letter, probably the same day."

That letter of Surgeon Murray to General Halleck will be found on pp. 716, 717 of the record, and in it he says, p. 717, "I want to be ordered to Hospital duty in PHILADELPHIA, New York, or some point north of these places. PHILADELPHIA would suit me best." "If you will send a memorandum to the Surgeon General's office, requesting him to order me to a Hospital in PHILADELPHIA it will be done at once."

The accused does not say Gen. Halleck asked him to make Murray purveyor, or to give him hospital duty, but to assign him to duty in Philadelphia, and he was not at that time assigned to duty as Purveyor. *How did he know that Murray desired to go to Philadelphia, and how did he know that he had so written to Gen. Halleck? It is quite clear those facts were known to him, and they must have come through Gen. Halleck, for the letter was a private letter, and although Gen. Halleck does not in his letter to the accused ask that Murray shall be sent to Philadelphia, yet no rational mind can resist the conclusion from the evidence on this subject that Gen. Halleck did make the request in some personal interview, and in the vast amount and weight of other matters by which he was overwhelmed, has forgotten it as he forgot that Murray, his friend, applying to him for aid, and whose cause he espoused, asked him to do precisely what the accused says he did do, if not send a memorandum, at least request the accused to order Murray to Philadelphia.*

It is no reproach to General Halleck to suppose he has forgotten a comparatively trivial private matter, while it would be unmitigated disgrace to the accused to find him guilty of fabricating a falsehood so idle and purposeless as that with which he is herein charged.

The accused knows that he made no intentional misstatement of the wishes of Major General Halleck, and he is positively sure, and avers that he had a conversation with him, in the course of which reference was made to the transfer of Doctor Murray to Philadelphia, and he cannot believe that a Court of the high character of the one required to decide this question, will do him the injustice of attaching criminality to a matter so easily and naturally explained by the suggestive circumstances surrounding it.

As to the third charge and the two specifications under it, the accused hesitates to make any reply.

He is charged with conduct to the prejudice of good order and military discipline. 1st, that on the 8th November, 1862, he did unlawfully and corruptly order and cause Henry Johnson, Medical Storekeeper and acting Purveyor at Washington City, to purchase three thousand blankets from from one J. P. Fisher, at the price of \$5.90 per pair, to be delivered to surgeon Cooper at Philadelphia.

There was a clerical mistake in the order to purchase these blankets from J. P. Fisher, it should have been T. J. Fisher. The order was not given by the accused personally, but by one of his assistants, and that fact stands out palpably as known to the prosecution. Yet much was sought to be made of this, as though it were a badge of concealment. The proof on the part of the government is conclusive, first, that the blankets were required by Cooper. His letter is in the record. Second, that he could not get them in Philadelphia. Third, that T. J. Fisher offered them to the accused when they were thus needed, and the accused directed Mr. Johnson to buy them at a price which was below the market price, and Johnson did buy them and they were sent to Cooper. The witnesses are T. J. Fisher, Mr. Waterbury and acting Purveyor Johnson.

It is difficult to conceive the motive which prompted this specification, when not only is there a total absence of proof on the part of the prosecution to show any corrupt motive in the accused, but the evidence produced by them, independent of the explanation given by Mr. Fisher and Mr. Waterbury, shows the public need demanded the blankets to be sent to Cooper, and there is not a particle of proof to show that the charge was too high; and the very "*direction*" given by the accused to the Acting Purveyor was within the letter and spirit of the Act of 16th April, 1862.

And the second Specification of this charge, that he did on or about the 3d December, 1862, *unlawfully* and *corruptly* purchase or caused to be purchased of J. C. McGuire & Co., large quantities of blankets, and bedsteads, *which were not* needed for the public service, is like its immediate predeces-

sor, a wonder and surprise, for it is not only not proved, but is disproved by the prosecution itself.

Under these two specifications and this third charge, the prosecution has taken a roving-commission; has put Brastow and Breed on the trail; the witnesses have moused about in the storehouses and hospitals, explored the Insane Asylum, and with marked evidences of unsound condition in themselves, have found unsound whiskey not fit for any kind of use, and unsound chemistry to demonstrate its unfitness; unsound tea, and a most uncertain source of its supply; and that the unhappy inmates of the hospital who fell into the hands of this corrupt and reckless head of the Medical Department, were deprived of the right of spending their hospital money, not the money of the Government, as their hospital stewards and surgeons saw fit, and compelled to take wholesome fresh, daily, hospital supplies at cheaper rates, furnished in a more convenient mode. Beyond this they have found that Fisher and McGuire supplied better articles at a cheaper rate, with more expedition and certainty than any one else, [so swears Dr. Laub, and he is no friend of the accused]; that Kidwell and Cissell supplied drugs and medicines, and even extract of beef, at Philadelphia prices; and Cozzens, Tarragona and other wines of fine quality at a fair price; they have also found that in some instances the accused directed articles to be purchased by the Purveyor in charge, in others approved contracts made by him, and in others ordered him to procure supplies, which the Purveyor translated into orders to get them from particular persons.

And this is no distorted or exaggerated statement of the outline of these two specifications—specifications as earnestly pressed as those involving the dealings with Stephens and Wyeth, but they lacked the support of Dr. Cooper or his distinguished friend Mr. Keffer, the distiller of alcohol, who rubs his spirit on his hands to see whether the fusel oil in it will glue them together, and who examines liquors at a hospital by the request of certain physicians, one of whom did not know him, the other was not there, and had never seen him, and neither of whom had asked him to do any such thing.

If Cooper and Keffer could have been added to Breed and Brastow—Brastow brought up in a country store, to attain knowledge and skill in the inspection of blankets, teas and liquors, and to head a commission to investigate the condition and affairs of the medical department of the largest army in the civilized world—if they had only been associated in the explorations here, there is no telling what might have been the result. As it is they had only Dr. Laub to tell the truth so far as his memory would assist him, and Brastow and Breed to give the coloring.

Under these specifications the prosecution has introduced the proof in regard to the quality of the bedsteads supplied to the Department; their number and value; and with the contracts present made by Dr. Finley, the immediate predecessor of the accused, with Fisher in the month of April, 1862, and in progress of execution when the accused came into office, has strenuously labored to exclude those contracts from the notice of this Court, while it has as strenuously endeavored to charge all the bedsteads furnished under them to the administration of the accused, especially and particularly those furnished to Dr. Satterlee. It has endeavored to show that Fisher charged widely different prices for the same article, and the higher price was approved, and when driven from this ground by the force of the irresistible testimony of Fisher and Dr. Murray, the prosecution falls back on the last contract made by Dr. Murray with Mr. Fisher as proof of the exorbitant character of the others, and, such is the tenacity of purpose with which a conviction is sought to be obtained, when Mr. Fisher shows conclusively that he lost money on that contract, and only took it to avoid a greater loss on material prepared and on hand to fulfil a previous contract which he well believed he had made, the prosecution again falls back on the oral orders which it is supposed were from time to time given by the accused, and does not yield when it is proven the accused never gave Fisher an order in his life. It would be a waste of time to pursue this matter further. There is an absolute failure of proof.

And so, as to the blankets referred to in the same specifi-

cation—needed by the Government—bought by Fisher for cash—sold to the Government on credit—a good article at a fair price—purchased by the Purveyor by direction of the accused, what can be said upon the proofs here to show a corrupt motive in so plain a case of a simple discharge of duty.

And so as to all the supplies furnished by McGuire and Fisher, in fitting up the numerous and extensive hospital churches with promptitude, energy and despatch for the reception of the sick and wounded, the wasted, and worn soldiers from battle-field, and hospital, who were being crowded into this city.

If there is an act in the life of the accused which merits commendation, it is this very action, now made the ground of accusation, which enabled him to provide, as fast as they arrived, for the thousands of soldiers then poured into this city needing medical aid and treatment, and who without his earnest, ceaseless, watchful care and providence at that time must have been subjected to great suffering.

Dr. Laub himself confirms all this. But it may stand alone on the testimony of Mr. Fisher, who although at that time and long afterwards personally unknown to the accused, deservedly enjoyed, and still enjoys among his fellow citizens a reputation for integrity, fidelity and truthfulness that has no superior.

It remains, after the brief discussion of the several charges and specifications to which the attention of the Court has been invited, to task their patience for a few minutes longer in calling to their notice various matters which have formed, as it were, side issues in the trial of this cause. This is the more necessary because it has been found impossible, in the time allowed for this defence, to make an analysis of the testimony, such as it was the design of the accused to have presented, and which would materially have relieved the Court in their examination and consideration of it. It is so disjointed; the evidence relating to the same matters is so scattered throughout the volume and mass of the proofs; there is so much immaterial and irrelevant matter intermingled with it, that such an analysis is greatly needed, and the accused has to throw himself on the patient indul-

gence of the Court, so long extended to him already, while he briefly recalls some of those parts which may seem to have some bearing on the points really in issue, although to his mind they have not the remotest relevancy to them.

The principal grounds of accusation are: First, that he has exceeded his lawful power and authority in purchasing supplies himself; in directing supplies to be purchased from particular persons, and in prohibiting their purchase at a certain place. Second, that he has corruptly employed his office to promote the interests of particular persons, and a particular place, although he knew those persons had been defrauding the Government, and the exigencies of the public service did not require the purchase. Third, that he has unlawfully exercised his office in requiring Medical Inspectors to report directly to himself. Fourth, that he has told a wilful falsehood.

To each of these subjects matter the accused has, with the utmost brevity, but he hopes with clearness and precision, given his answers, resting on the evidence in the record, and a just and fair construction of the law, for his full defence. But, as he understands the matter, numerous facts, not set out or in any way shadowed forth by the specifications, or any of them have been introduced to give coloring to those really charged, or to qualify the motive by which the acts charged have been characterized; and however remote and irrelevant those facts may appear to him, it is proper he should take some notice of them.

Great stress has been laid on the fact that Mr. John Wyeth is not here, and he has even been spoken of as a fugitive from justice. Mr. Wyeth is not on his trial now. He is defenceless and absent. It is difficult to perceive how this bears on the truth or falsity of any one of the accusations against the accused.

The testimony of Col. Scott, late Assistant Secretary of War shows that before Mr. Wyeth made his final preparations to leave Philadelphia, he, Col. Scott, informed the Secretary of War that Mr. Wyeth was going as the agent of a company in which Col. Scott himself was largely interested, to explore a portion of the territory of Arizona, but having heard rumors of the developments made by the

Reeder Commission, he would not go if he was in any manner implicated by the report of that Commission. He was answered that the Secretary had not read the report, but he would let him know in a few days. The parties waited several days beyond the time indicated by the Secretary, and then hearing nothing from him, completed their arrangements. On the 20th Dec., 1863, Col. Scott was informed by the Secretary that a court martial would be ordered. On the same day Col. Scott replied that Mr. Wyeth must go; and asked if any changes were necessary before Wednesday, (the 23d,) to advise him. Nothing further was done, and Mr. Wyeth sailed on the 23d. The Government had the fullest opportunity to know when Mr. Wyeth reached California, and that he was there openly till some time in March. There was no concealment in his going; or as to his whereabouts afterwards; he is not and never was a fugitive from justice. So much is due to Mr. Wyeth. In his absence the accused has lost a most material, and important witness. He was ignorant of his intention to go at that time, and equally so of his having gone till after this Court was ordered. He challenges a scrutiny into the record in this cause for a scintilla of proof, that he was in any manner interested with John Wyeth, or any member of his house in any of their transactions with the Medical Department, or for any fact tending to show such interest.

And do in like manner the prosecution has drawn into this case an alleged failure of supplies immediately after the battle of Gettysburg. Under what specification all that evidence was admitted and how it bears on any one of them the accused is at a loss to discover. However that may be he confidently points to the evidence in the record of Purveyor Brinton, Inspector Cuyler, and Director Letterman, and to the whole testimony on that subject for his complete vindication from every ground of suspicion of neglect or want of foresight on that occasion.

And so in like manner, the evidence of Dr. Satterlee, as to the Port Wine purchased from Mr. Cozzens, and some of which Dr. Satterlee thought was bad. To what specification does that apply? That too is full and most satisfactorily explained by Mr. Cozzens, and put right by Purveyor Creamer.

And so as to the wines and teas purchased in the District of Columbia, of which no notice is given in any one of the specifications; wines and teas proved to be of excellent quality and bought at advantageous prices.

And so as to the drugs and medicines purchased from Kidwell & Cissell, with which no fault could be found.

And so as to the purchase of the remnants of Wyeths stock in the warehouse, a purchase which Dr. Murray has shown was made by himself, selected by himself, priced by himself, paid for by himself.

To enumerate all the other outside matters, having no direct bearing upon any one of the issues, and which are irrelevant and immaterial, would exhaust the patience of the Court, and he forbears to press them further on its attention.

The accused has now covered as fully as time and opportunity would permit, the chief points of accusation against him.

With skill and labor the law officer of the Government has sought to bring to the notice of the Court, the main facts and the minute details of the official connection of the accused with all the matters of alleged wrong doing. Unlimited in his power to collect witnesses and amass documentary evidence, the country has been traversed in search of the one, and the files of the Departments eviscerated for the other, and in the swollen record now open to the inspection of the Court, it is fair to assume is embodied everything that could be supposed to tell injuriously upon the official conduct and fair fame of the accused. He has been a deeply interested party to this trial, not because its possible issue involves the loss of official position. That is indeed something, but his good name is of infinitely greater value. His personal honor has been put in issue, and for it he makes earnest contest. Two years ago he went into the office of Surgeon General at the invitation of the President and with the confidence of the Government. Duties of the most important and various character instantly devolved upon him. His responsibilities were grave and heavy. The land resounded with the tread of immense armies, and their needs demanded from him prompt and earnest action. The rapidly developed necessities of these great armaments also re-

quired important changes in the organization of his Department, and much labor was needed to increase its efficient working. The changed condition of national affairs called for larger expenditures and larger views, and this, as the evidence shows, when ready money was not at his command. The reputation of the country demanded that the brave defenders of its highest interests, should be accompanied everywhere and under all circumstances with whatever an advanced medical science, and a thorough prevision of their wants could suggest. To do this—to do it completely, so that all probable contingencies of sudden demand should be confronted with an ample supply, and to discharge all his duties with no contracted ideas of an unwise and hurtful economy, but with a comprehensiveness bearing some relation to the magnitude of the great events in the midst of which he was acting, the accused confesses to have been his ambition. Doubtless his performance may have fallen short of his desire. Doubtless he may have committed mistakes of policy. Doubtless in the midst of engrossing duties he may have failed at times fully to satisfy the demands of the service. Of one thing however he is absolutely sure, that with right purposes and honest motives he has endeavored to discharge his duties, and upon careful revision of the record of this case, he sees in it no sustained aspersion of his honor. It shews that in all the multiplicity of the transactions it has disclosed, and in the millions of expenditures to which it has referred, no single witness could be produced, though all of them who had dealt with his Department were challenged to the proof, who casts upon him the shadow of personal corruption. Whatever of erroneous judgment, of unintentional error there may be, not only is no corruption shown, but it is positively disproved by the most emphatic evidence. The Court has heard the case with patience and courtesy. To it is now committed the judgment of his conduct, and the accused asks only a candid consideration and a just decision.

WM. A. HAMMOND,
Surgeon General U. S. A.

JOSEPH H. BRADLEY, *Washington,* }
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C.M.
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MAR 28 1951

