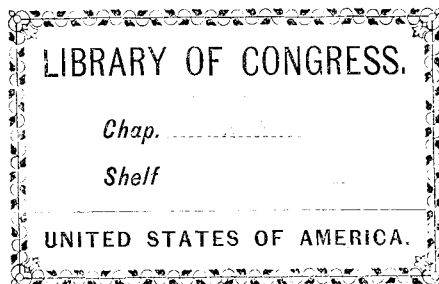


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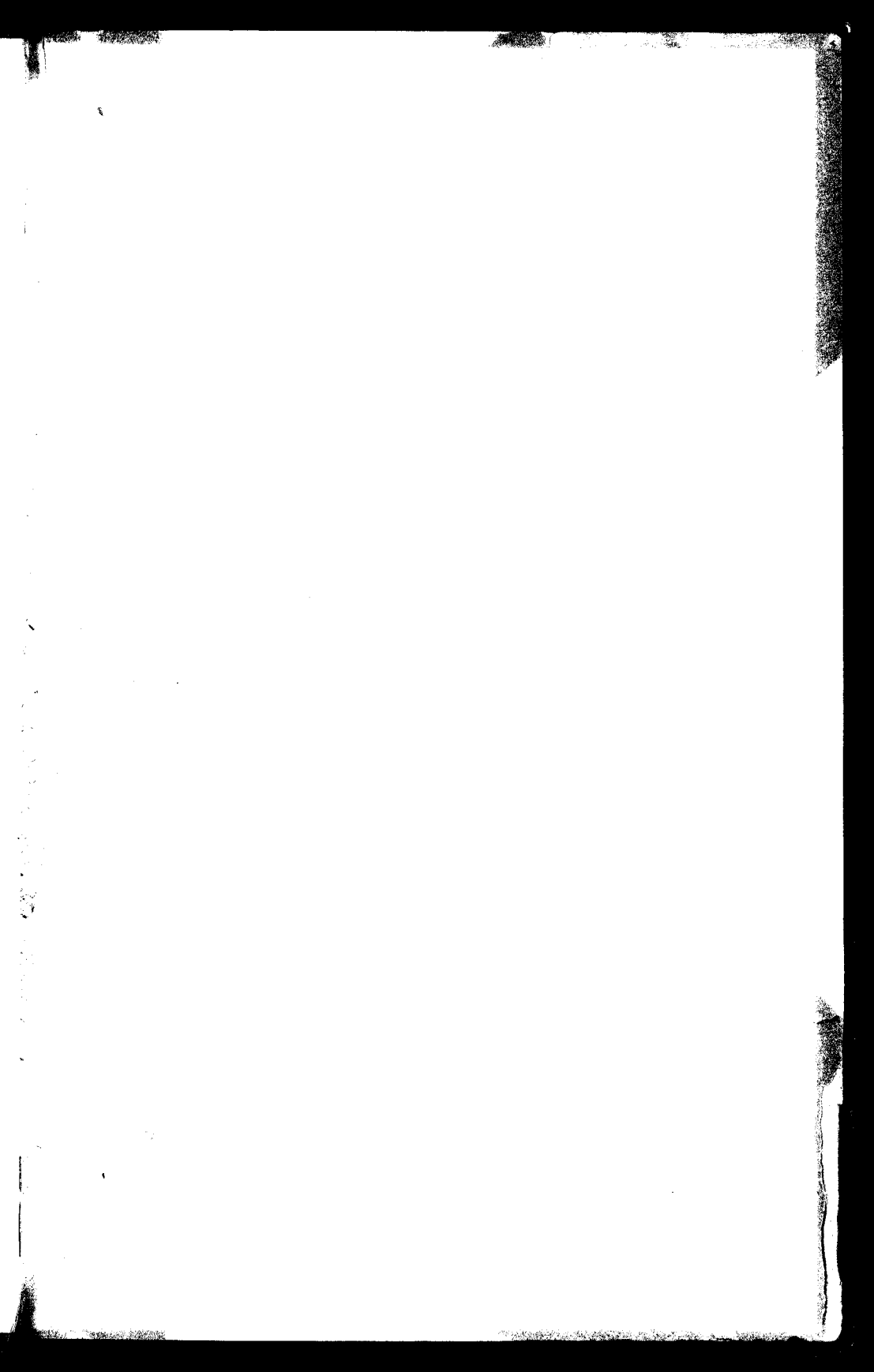


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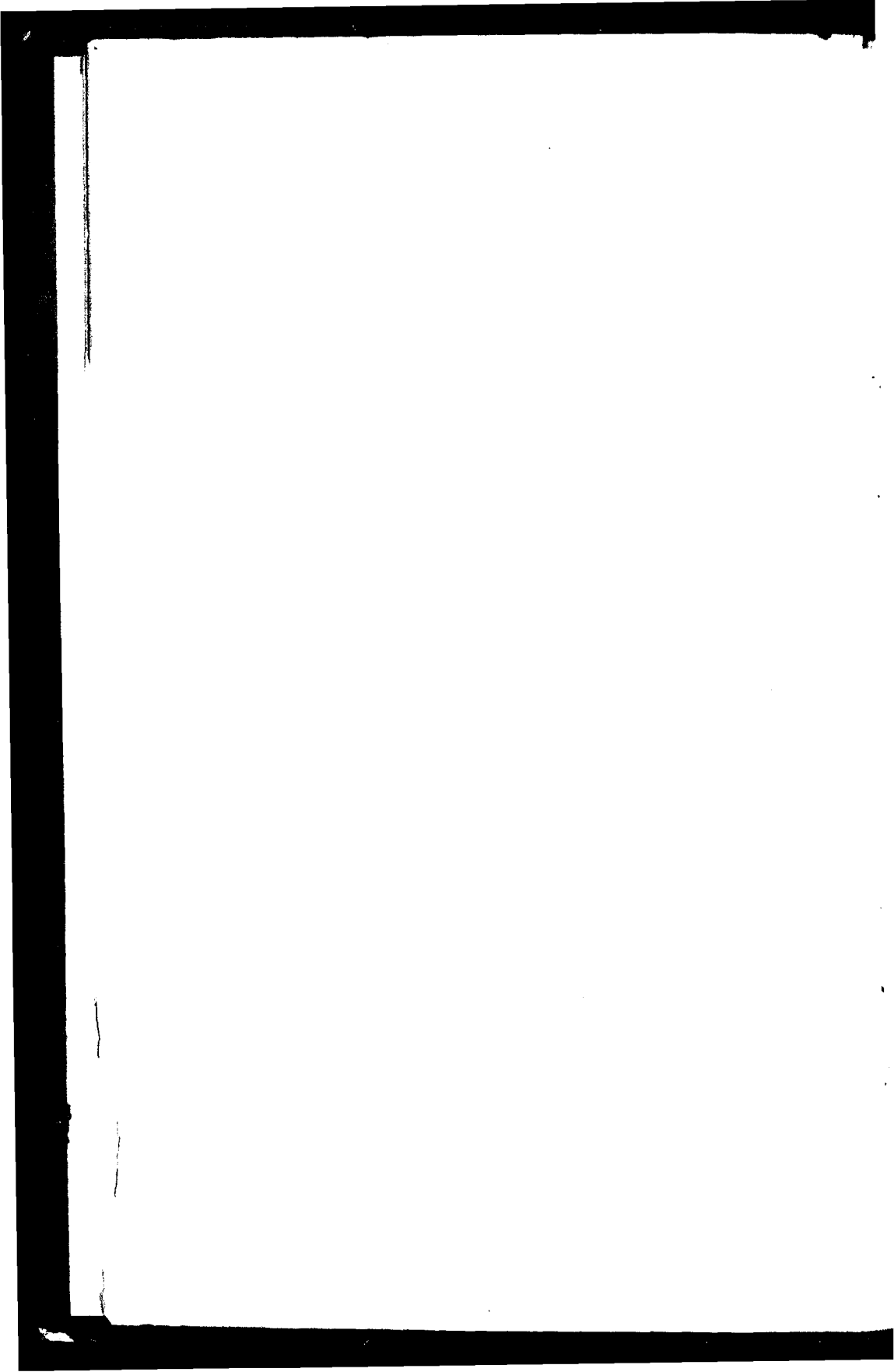
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UNITED STATES OF AMERICA.







DEFENSE

OF

COM. JAS. ARMSTRONG

BEFORE

NAVAL COURT MARTIAL

CONVENED AT WASHINGTON 12TH MARCH, 1861,

COMPOSED OF

SENIOR FLAG OFFICER CHAS. STEWART,*

COMMODORE W. B. SHUBRICK,
" F. H. GREGORY,
" S. H. STRINGHAM,
" WM. MERVINE,
" THOS. CRABBE,
" S. L. BREESE,


COMMODORE HIRAM PAULDING.
" W. J. McLUNEY,
" J. R. JARVIS,
CAPTAIN W. C. NICHOLSON,
" J. B. HULL.

A. B. MAGRUDER, Esq., JUDGE ADVOCATE.

P. PHILLIPS, Esq.,
COUNSEL FOR DEFENDANT.

*Com. Stewart relieved during trial.

WASHINGTON:
GEO. S. GIDEON, PRINTER.
1861.



MR. PRESIDENT AND GENTLEMEN OF THE COURT:

In a case so deeply affecting my character as an officer, and so interesting not only to the public service, but in its relation to the extraordinary revolution which is shaking the very foundations of the Government, it is peculiarly proper that I should now exercise my privilege of commenting upon the sworn statement of the witnesses as it has been recorded before you.

During the whole of this protracted examination, I have studiously abstained from raising any objection to the evidence, much of which it was in my power to have excluded. I had no reason to doubt the integrity of the witnesses, and conscious of my own, rather than even seem to be technical, I was willing that they should state not only all they saw and knew, but everything they had heard in anywise affecting the honesty of my conduct, or the truth of my declarations.

The prosecution has largely entered upon proof of my written statements and verbal communications; and in reference to these, I desire to impress upon the attention of the court once for all, that while it is entirely competent for the prosecution to use such evidence against a defendant, yet by the well established law when thus used, they are to be taken as true, without there is other preponderating evidence showing them to be untrue; in other words, every fact thus stated must be considered as proved, if there is no sufficient evidence to rebut it.

Though born in Kentucky, and appointed to the service while a boy of fifteen years from the State of Mississippi, I have chiefly resided when ashore at Charlestown, Massachusetts, having married a lady of that State. In April, 1858, I arrived home from my command of the East India and China squadron with a three months' leave of absence. In reporting the expiration of this leave, I earnestly solicited the command of the Charlestown yard when the term of the then incumbent should expire. I had never exercised such a command, and from my geographical position and past services, I considered I was warranted in anticipating an acquiescence in this request. No reply whatever was made to this application, which was again renewed in April, 1859. About the 1st May thereafter, Commodore Stringham, the incumbent, was relieved by an officer very much my junior. The extraordinary reasons subsequently assigned to me by the Secretary for this course it would be improper for me here to state.

Without any previous knowledge on my part, I received peremptory orders to proceed to and assume the command of the navy yard at Warrington, in the State of Florida.

Accustomed all my professional life to obey without demur the

orders of my superior, I promptly repaired to my post and entered upon the duties of my office on the 30th day of October an entire stranger, not only to its resources and requirements, but to every human being in anywise connected therewith, save only the master gunner, Mr. Cooper.

In what manner I discharged the duties of commandant for the ten weeks in which I held the post, the concurring testimony of the witnesses fully establishes. The question was directly put to the naval constructor, Mr. Porter, by the venerable and venerated senior officer, whose present absence from the court I deeply deplore, whether rules and regulations had been established for the government of the yard and the protection of the public property, to which was the emphatic response: "Yes, sir. The rules and regulations were as strictly complied with as in any yard I had ever been in."

To comment upon this point, would be to raise a doubt, where the evidence itself is clear and positive.

Let us now pass to the transaction of the 12th January, 1861.

The charges to which I am now to answer are—

1st. Neglect of duty.

2d. Disobedience of orders and conduct unbecoming an officer.

The first specification under the first charge is, that having on the 12th of January an adequate force to defend the yard, I surrendered it without resistance to the commissioners of the State of Florida, supported by a military force from that and the adjoining State of Alabama.

In every judicial investigation of a criminal, or quasi criminal charge, upon the very threshold of the inquiry, stands the leading question of intent. Intention bears the same relation to the dry act that the soul does to the body; it is its animating, controlling, and responsible principle.

You are, therefore, in limine to inquire, whether the evidence authorizes the judgment that the surrender made by me was induced by any improper or corrupt motive, or whether the act was done in good faith, and in the honest discharge of what I believed to be my duty in the premises.

Upon this, to me the greatest issue of this cause, I can defy the ingenuity of Malice itself, in all the details of my acts and conversations so particularly and minutely described, to raise even a doubt as to the loyalty of my conduct. Let, then, your judgment be what it may as to the wisdom or policy of the course pursued by me, the evidence of my fealty to the Government, as proved upon this record, will be a solace to the few remaining years of a life now nearly spent, of which no human tribunal can deprive me.

On the 9th January, it is shown that I received the letter of the Secretary of the Navy, directing me to be vigilant in protecting the public property, and to co-operate with the commanding officer at

Fort Barrancas. On the same day Lieut. Slemmer, the officer referred to, having received orders to defend one of the forts, had an interview with me in the presence of Lieut. Gilman and the officers under my command, at which Lieut. G. testifies it was agreed by the officers of the army and myself "that Fort Pickens was the only point in the harbor that could be successfully defended against a considerable force for any length of time with the means at our disposal."

There were but two vessels then in the bay, the storeship "Supply" and the "Wyandott." These were immediately placed in the service of the army officers to provision the fort and effect their removal from the Barrancas, with orders that as soon as they had discharged this duty, they were to return to the yard. They never did return until after the surrender.

The evidence of Lieut. Irwin shows, that he was detailed on the 9th for the purpose of assisting in the removal of Lieut. Slemmer's command; that on that night the Wyandott took the Supply in tow, but nothing could be effected, owing to the dense fog; that on the morning of the 10th he was detailed to take charge of the boats of the Wyandott, and was occupied all that day in transporting the garrison, with their field pieces, ammunition, and equipments; that on the same day two boats from the navy yard, together with the boats from the Supply and Wyandott, were employed until late at night in transporting the powder from the Barrancas to Fort Pickens; that on the 11th the boats of the Wyandott were engaged all day in carrying over a large quantity of baggage and firewood for the use of the garrison; that on the morning of the 12th two boats from the Wyandott were detailed to assist in landing the provisions from the Supply; that it took about twenty men to man their boats; that during this time they carried over from the yard 30 "ordinary men," with their arms and munitions; and that at the time of the surrender the "Supply" was actually engaged in delivering stores to Fort Pickens.

It will be remembered that I was directed by telegraphic dispatch to send the "Supply" back as soon as possible. Hence my letter of the 11th to Lieut. Slemmer, in which I wrote as follows:

"In reply to your communication of this date, I have to state that the U. S. storeship 'Supply' was sent to Fort Pickens by my order merely to convey the provisions you required, and then to return to the navy yard. The supply is not a vessel of war, and having been sent to this station for the *special purpose* of conveying stores and coal to Vera Cruz for the vessels of the home squadron stationed there, it is my duty to dispatch her to that post, at the earliest moment practicable, in conformity with the orders I have received from the Navy Department, from which orders I cannot deviate further.

"The steamer 'Wyandott' may be retained for the purpose of co-operating with you until further orders."

The force of the yard consisted of 38 marines. As to the number of the "ordinary men" there is some discrepancy. Paymaster Warrington states it at 80. Mr. Porter says positively there were but 60 in all. Mr. Bishop, the surgeon of the post, testifies that on the 12th there were on the sick-list 3 of the ordinary men, and that there were some also in the hospital, but he does not remember the number. Assuming, therefore, the average 70 as the whole number of the ordinary men, and deducting the number sent to the fort, and we have left 40. The character and efficiency of these men may be judged of by the facetious allusion of Lieut. Gilman, who says the thirty sent to the fort were not only "ordinary men," but *very ordinary men*. Mr. Porter, whose intelligence was very clearly indicated by his manner of testifying, describes them as a pretty poor set; some very old, and some young and worthless. They were the most worthless set of men I ever saw in my life, and were not to be depended on." When it is remembered that this description was applied to the aggregate, what estimate will be formed of the refuse after thirty of the best had been selected? The graphic narration of Falstaff, who was so ashamed of his command as to vow he would "not march through Coventry with them," would seem to be no inapt illustration of the efficiency of such a force.

The mechanics and laborers of the yard employed by the day, and numbering from 150 to 200, are shown to have been, with a trifling exception, disaffected to the Government, and not to be depended on. The throwing overboard of an important part of the machinery of the Wyandott by the master machinist, in order to disable her, and prevent her co-operating with the fort, is a striking illustration of the spirit which leavened the whole body. These persons generally resided in Warrington, a village adjoining the yard, and located on the Government Reserve, and it is as to the inhabitants of this village that Lieut. Irwin says it was understood on the morning of the 12th that a large majority of them were to join the State troops, "and though he did not know whether they actually joined in the march upon the yard, he knew that great numbers of them did join them immediately after the surrender." It was the mutinous and threatening conduct and conversations of these men that induced the report Mr. Cooper testifies he made to me a few days before the surrender, and this report but confirmed the impression my own observation had made upon my mind. Hence my reply to the suggestion made by the Army officers as to the propriety of raising a company of these men to defend the fort, "that they would not be true, and if enlisted would turn their arms against them." My own belief was

and is, and this is sustained by the evidence, that on the day of the surrender I had not more than about 70 enlisted men of all kinds, and that this was the only force I could have called on in an emergency.

It is also shown by the evidence that the saluting battery of the yard, consisting of the old guns of a Texan brig, could not be rendered fit for use, and that there was no shot to supply it. There were some 32 pounders in the yard lying about on skids, but without the means of making them efficient. As to the four carriages which are said to have been sent to the yard for the Fulton's guns prior to the time I took the command, I can only say, the fact was entirely unknown to me, as it was unknown to all the witnesses who have been examined. The Naval Storekeeper must have kept them very carefully locked up, and from the evidence given as to the part he took in these transactions, I was the last man he would have permitted to know of it. The bill for freight which has been produced, as approved by me on his certificate, is for "ordnance and ordnance stores," and afforded me no evidence they included "carriages."

It has been asked by the prosecution whether the "Supply" and "Wyandott" could not have been so stationed as to have commanded the bay road from Pensacola by which the yard was reached? But the evidence of the civil engineer, Mr. Abert, sustained by the other witnesses, is, that the troops could have marched upon the yard by a better though somewhat longer road, entirely out of reach of their guns. Besides, by my agreement, I had already parted with these vessels in carrying out my orders to co-operate with Lieut. Flemmer.

The demand made on the morning of the 12th by the Commissioners of Florida was accompanied with the declaration, that there was a well armed and well organized regiment of troops at the gate, and that they had on their way taken possession of the magazine. This statement made in the presence of Commander Farrand was fully vouched by him.

The States of Florida and Alabama passed their secession ordinance on the 11th January, the news of which reached Pensacola on the evening of the same day, but was not known to me until communicated by the Commissioners. I had known of the election of delegates to the convention, and that the Union candidates for this particular county had been elected; what would be the action of the convention, and what consequences would flow from it, was a mere matter of speculation. But I certainly had no reason to anticipate, whatever the convention might do in reference to the question of secession, that they would without negotiation with the Federal Government at once proceed to take by force the property of that Government located within its border under the sanction of the Constitution and laws. The laws of Nations afforded no justi-

fication for such a procedure, and I therefore could not anticipate an act in flagrant violation of them.

Much has been said by the witnesses as to rumors of attack upon the forts and yard for several days prior to the surrender, but they, like the chameleon, changed their hue at every turn. Lieut. Irwin says, "there were rumors the night previous, but nothing was positively known until the morning of the 12th." Mr. Lawton testifies, "that prior to the morning of the 12th, he considered them mere idle rumors;" Paymaster Warrington "apprehended no danger until the night before." Another witness deposes, "that those who should have known denied that any attack would be made up to 7 o'clock of the morning of the 12th."

The history of the country would be searched in vain for another instance of an attack made upon a government post, thus commanded and occupied, by a military array of citizens acting under the authority of States, given in the most solemn manner.

You are not therefore to test this transaction by the knowledge of events transpired, but by the condition of things as it existed when I was called upon to decide. *Now* we have a new chapter added to the experience of the country, *then*, the past shed no single ray of light to guide me on my path. If embarrassed by these events, so extraordinary in themselves, while thus groping my way in the dark, my judgment has, in some things been at fault, just and generous minds will not be quick to condemn me

How far the embarrassment of my position was increased by the want of fidelity in those whose duty it was to keep me properly advised of current events, I leave, without comment, to your determination; when, as Lieut. Gilman testifies, Mr. Slemmer stated to me that the officers on whom I relied "were badly disaffected to the Government," I replied, "I thought not, they would be true to the oaths they had taken to support the Government." Commander Farrand and Lieut. Renshaw, so far as I had heard, had born unsullied reputations in the Navy, and I knew of nothing to justify the withdrawal of my confidence. Was this confidence misplaced? Does the evidence show that their active sympathies were with the invaders? It is for you to judge; it is too painful for me to comment on. But if the evidence does show this, then you can readily understand how destitute I was left, not only of the physical means of defense, but of that mental and moral support so necessary to guide my judgment and direct my action.

As some evidence of the disposition of these two officers, whose long identity with the State gave them a thorough knowledge of the people and the locality, I advert to the order given by Commander Farrand to the gunner to go to the magazine and afford all the information required by the troops in possession. The gunner says, he was on his way for this purpose, but was prevented by the troops, who were at that time entering the gate.

By another witness it is stated, that when Lieut. Renshaw gave the order to haul down the flag, his answer to a remonstrance was, "We are not hauling it down to an enemy, *but to our own people.*"

Having thus described the means at my command, let us now pass to the question of the invading force. This is shown to have consisted, with but one exception, of uniformed companies, well organized and well armed with muskets, rifles, and revolvers. It is known, from the history of the times, that the Alabama troops had been armed from the Mount Vernon arsenal, situate a few miles above Mobile, which the precaution of the last administration had well stored with the best of warlike implements, but with no sufficient guard to defend them. Thus were the means supplied by one defenseless post of the Government to invade another left equally defenseless!

There is in the evidence some discrepancy as to the numbers of the invading force as they appeared at and in the yard. In my report, made at the time with the best means of information I could obtain, I stated it to be from 5 to 600, and the evidence given by the witnesses fully justifies that estimate now.

Paymaster Warrington says, they were between 6 and 800; other witnesses, from 4 to 500; while two were as low as 300. One of these two, Mr. Hunter, numbers the horse company at from 50 to 75, which is double what any other witness states it. Capt. Watson, of the marines, says, about 300 were quartered in the marine barracks, occupying all but two rooms, that these remained there until the next day, the 13th, while Lieut. Irwin testifies that about 3 o'clock of the day of the surrender 200 State troops marched past his house at Warrington on their way to take possession of the hospital, thus showing the number to be 500. The witnesses generally concur in stating that there were seven companies averaging from 60 to 70 men.

But the estimate of these witnesses is confined to those at or in the yard at the time of the surrender. To this number is therefore to be added the troops who were then at the magazine.

That there was such a force at the magazine is clearly shown by—

1st. My Report to the Secretary of the Navy, offered in evidence by the prosecution, in which I state: "On the morning of the 12th I was apprised by an officer of the yard that a formidable military force had invested the east gate, having on their way already possessed themselves of the magazine."

2d. The evidence of Mr. Cooper, the gunner, who testifies as to his being sent by Commander Farrand to give all information to the troops in possession of the magazine.

3d. The evidence of Messrs. Porter, Dixon, and Hunter, that it

was currently stated and believed at the time that a company was stationed at the magazine.

Assuming, therefore, that one company was left at the magazine, we shall have the whole force as reported by me to be between 5 and 600.

But this is by no means the limit to the consideration of this branch of the subject. When the States of Florida, Alabama, and Mississippi seceded from the Union, to all practical purposes I was in the midst of a hostile country. With a population in Woolsey and Warrington, immediately adjoining the yard, of 1,200; with 3,000 in Pensacola, seven miles distant; the city of Mobile with 40,000, within a few hours by land or water; and Montgomery, the capital of Alabama, connected by a railroad very near completion, the 5 or 600 men who were thus arrayed in the name of the State were rather to be treated as the exponent of a power than the power itself.

If on Saturday I had made such a show of resistance as to have deterred an attack at that time, it would have but postponed the question for a day or two. Troops were constantly pouring in from the adjoining States, and by Thursday they numbered one thousand, exclusive of the aid which these localities would themselves have afforded.

Thus situated with a handful of men in a defenceless yard, surrounded by an excited and hostile people, and opposed by so large a body of well armed and well disciplined troops, whose number was capable of hourly increase, and without means for augmenting my own, I was suddenly called upon to decide the momentous question, whether to capitulate or fight.

In choosing the former alternative, I trust I may be pardoned in saying that considerations of personal safety had no influence with me. I am not conscious that I have ever been actuated by any fear, but the fear of doing wrong. For this old body of mine, racked by disease and worn by age, I have too little regard to withhold it from any danger which the discharge of duty might incur. I certainly did not so regard it in the transaction stated by Commander Foote, to have occurred in the River Canton, when suffering an illness so extreme, "that the fleet surgeon and all considered my life would terminate before the cruise," I transferred my flag to the Portsmouth, and in the attack upon the barrier forts, stood upon her poop, with spy-glass in hand, over two hours amidst a heavy fire, calmly surveying the scene, and directing the elevation and depression of her guns.

No, gentlemen, if the Government had given its instruction to defend this post at all hazard, I should have done so without a thought of danger to myself, and upon the altar of duty I would have laid the lives of my whole command!

But left without specific instructions, I had to determine for my-

self as a military man what was demanded of me by the exigency of the occasion, and the conclusion of my judgment was that a sacrifice of my command under such circumstances would be regarded as an act of rashness, which would find no warrant in military requirement, and would stand condemned by the voice of humanity.

I am, however, free to confess there were other considerations which strengthened me in the conclusion at which I arrived. It is well known that immediately on the passage by South Carolina of her ordinance of secession on the 20th December great excitement prevailed throughout all the gulf States. Yet with the small means known to be at my command, I was left unaided and without instructions as to the wishes of the Government through the whole period, except in the direction "to be vigilant to protect the public property." At a time when Discontent and Rebellion were raising their hideous front, the employées of the yard were left for two months without pay, and such was their destitution and distress, that I had to assume the responsibility of issuing the order to Paymaster Warrington to furnish them the means of subsistence from the Government stores. It is not, therefore, very surprising that Commander Farrand should have felt himself justified in saying, as stated by Lieut. Gilman, "that the yard and the fort had been shamefully neglected by the Government, and that, in his opinion, this neglect to reinforce the place showed that the Government, knowing the state of affairs at the South, did not expect it to be defended against a large body of troops," &c.

Everything I had seen or heard from the commencement of these troubles, indicated that the policy of the administration was directed with an eye single to avoid a collision between the troops of the United States and the State authorities. Civil war was proclaimed to be not only the greatest of calamities, but as the sure means for the overthrow of the Government, and the prevention of its eventual reconstruction. On this policy the administration of the Government is conducted to the present moment. Government vessels have been captured, Government treasure seized, its arms appropriated, its forts taken possession of, its supply ship fired into, and its strong castles regularly besieged for the purpose of starving out those who hold them. Yet all this has been submitted to! Why? It is not because the Government is either unwilling or unable to vindicate its honor and "protect the public property," but because conscious of its strength, and recognising the anomalous character of the contest, it forbears to strike a blow which would light the torch of civil war, and destroy forever those free institutions which were founded in the wisdom and cemented by the blood of the immortal dead! Who believes that this Government would have submitted to such acts, or any of them, from the proudest nation of Europe? For one tithe of such aggressions,

the people of this country would have rallied as one man, though it were to "meet the world in arms."

I am, therefore, perfectly free to admit, that in having come to the conclusion, that my force did not justify a resistance, I was strengthened by the considerations I have mentioned. I thank God that my duty did not justify me in inaugurating a civil war! The land is yet unstained by kindred blood, and patriotism may still look with hope to the future, when the unity of the States will again be heralded by the stars and stripes of our flag, and the strength of the Government be seen and felt in the loyalty of its citizens.

Under the 2d specification I am charged in this: That on the 7th January, "having reason to apprehend the approach of a hostile force," I failed from that time to the 12th "to take the ordinary and proper measures for the defense of the yard and the public property thereat."

What are "ordinary and proper measures?" This question depends upon another; what is the force to be defended against?

It is not pretended by me that I attempted to throw up breast-works or construct fortifications, so as to render the yard impregnable against the attack of a large force. That I had not the means to do this was determined on when I held the consultation with the army officers. Lieut. Gilman, as already cited, tells you that "it was agreed, there was no other point in the harbor that could be defended for any length of time against any considerable force with the means at our disposal but Fort Pickens. Hence it was that 30 of the picked men of the yard, together with the "Supply" and "Wyandott," were sent to Fort Pickens to co-operate with that post.

While, therefore, it is true I did not resort to means of an extraordinary character, it is not true that I did not adopt "the ordinary and proper measures for the defense of the yard and the public property thereat."

It is stated by Capt. Watson, of the Marines, that on the 9th I sent for him and cautioned him "to be very vigilant, to keep a bright look out, and to report to him (me) any unusual occurrence." That under my orders of that date, he posted near the north gate a guard consisting of "a sergeant, corporal, three men, and a watchman, where there was usually kept a watchman only." That in addition, "he also posted a sentinel at the end of the wall near the water, where there was a platform, from which he had a good view outside of the yard," with the order received from me "to permit no one to come round the wall or go outside," and that early on the morning of the 12th I "sent for him and ordered him to hold the marines in readiness on the shortest notice."

It is further established that I also gave this order to be vigilant to the master gunner, and that the precaution was taken "four

or five days before to permit no one to go out or come in without giving the countersign."

These "ordinary and proper measures" were sufficient to guard the yard against any hostility which I had "reason to apprehend."

It is true, Mr. Abert states, he informed me on the night of the 11th of a conversation he had that evening held with Major Chase relating principally to the forts, and that he had heard 400 troops were expected at Pensacola by that night's train, and 500 the next day. But he also says, he informed me that he had stated to Major Chase he did not suppose the yard would be attacked.

This interview, Mr. Abert says, took place at my residence, when Lieut. Erben was present. Without intending to impugn his integrity, I have to say, on my honor, as a man and officer, I have no recollection whatever of this visit, and I do not believe it ever occurred. The evidence of Lieut. Erben, previously examined and discharged by the judge advocate, describing the only interview he ever had with me, while it does not positively disprove the fact, affords very strong circumstantial evidence against it.

I conclude, therefore, this head of arraignment by saying, that having on the 9th agreed with the officers with whom I was ordered to co-operate, that the yard was not defensible against a large force for any length of time, but the fort was, and having on this conclusion parted with a large portion of my own force, I did adopt the "ordinary and proper measures," according to my then means, "in the defense of the yard and the public property thereat."

The 3d specification charges neglect in not removing "to Fort Pickens or other place of safety the men, munitions of war, and other public property, or the latter to destroy, although at the time aforesaid, in constant expectation of the approach of a hostile force, which he believed he could not, with the forces under his command, successfully resist."

The time set forth is from the 9th to the 12th January, and the gravamen of the charge rests upon the fact that I was in *constant expectation* of the approach of a hostile force, which *I believed* I could not, with the forces under my command, successfully resist.

It is not alleged I had *reason* to expect, but that I was in *actual expectation*; nor that I had *reason* to believe, but that *in fact I did believe*. This positive allegation as to the condition of my mind must be established by proof, as any other fact, or the whole specification falls to the ground.

To prove this condition of mind, the Judge Advocate knows, is essential; and hence he plied the witnesses with the question, whether I ever stated to them what I would do in case such a force was brought against me, and to this he uniformly received a neg-

ative answer. Where, then, is the evidence either of declaration or act to establish this vital fact, that between the 9th and 12th I was in "*constant expectation*" of a force which I "*believed*" could not be resisted?

But I may be asked why, as I had agreed that Fort Pickens was the only place that could be successfully defended, I did not remove thither with men and property? or failing to do this, destroy the property?

The answer is, that in the absence of orders to that effect, I did not regard the emergency as justifying such a course. There were rumors, it is true; but how if I had acted upon them, abandoned my post, destroyed the public property, and *they had proved to be untrue?*

Tried on such a charge, how impotent would have been the effort to shield myself, under the declaration of witnesses, that they had heard rumors of an attack? I would then have been told that an officer could not justify himself in abandoning his post or destroying the public property against which the law denounces the heaviest penalty upon such uncertain and unreliable ground.

Though I did not believe that my post would ever be invaded by the military forces of the State, acting in its name and under its authority, at least until there had been a preliminary communication with the Federal Government, thus affording time to learn its wishes, I did apprehend some danger from the lawless character of the employees and others resident near the yard. Against any invasion by such a mob, I had the means to protect myself; and against such a contingency, I did adopt "the ordinary and proper measures of defence."

The destitute and starving condition of these people, arising from their non-payment for two months, has been fully described; and the danger from this source, shown by the evidence of Lieut. Gilman, who states that in the interview referred to I said "I had very small means at hand, and that there was a hungry mob outside." Capt. Farrand also stated the same, and said "if they were to order away the marines, they would be at the mercy of the hungry mob." There is, therefore, no inconsistency between my determination that Fort Pickens "was the only point that could be defended for any length of time against a considerable force," and my remaining with diminished force still at the yard, under the belief that the public property could be defended against lawless violence or invasion.

Under the second charge of "disobedience of orders and conduct unbecoming an officer, the two specifications are—

1st. That I disobeyed the orders of 3d January in not sending "the marines and other men" to Fort Pickens. (The latter part of this specification being but a repetition of what has been already stated under the head of neglect of duty.)

2d. That having on the 10th January, in accordance with an understanding previously had with Lieut. Slemmer, dispatched the steamer Wyandott to aid him in the defence of Fort Pickens, I violated this understanding by my letter to Lieut. Berryman, commanding that steamer, written on the morning of the 12th January.

It is scarcely necessary to say, that the instruction to "co-operate" with Lieut. Slemmer left me at liberty to select such mode of co-operation as my judgment dictated. When such a general term is used in a letter of instructions, and the officer exercises his discretion under it *in good faith*, if what he does is within the scope of the instructions, he cannot be held to be guilty of disobedience of orders, because he adopts one instrumentality instead of another. Is it not, therefore, purely absurd to say, that because I did not send to Fort Pickens *all the men* under my command, I was guilty of disobedience? My instructions were to "co-operate," and the question is, did I act in good faith? The extent of the co-operation is another matter, and cannot be involved in the question of disobedience.

As soon as these instructions were received, to wit, on the 9th January, I ordered Lieut. Irwin, then at the yard on leave, to join the Wyandott for the purpose of this co-operation, and the "Supply" and "Wyandott," together with 30 of the best of the "ordinary men," were immediately appropriated for the same purpose. Lieut. Irwin gives a full detail of the operation of these vessels, from the 9th to the 12th, as well as the aid afforded by the Lighter and boats of the yard under Sailing Master Pearson. This narration of facts, in connexion with the evidence of Lieut. Gilman, that I promised to furnish "*what men I could spare*," that I referred "to Capt. Farrand, and asked him if fifty good 'ordinary men' could not be selected," who replied "that not more than thirty young and active men could be had," together with the repeated declaration of the witness, that the "commodore seemed anxious to afford us all the assistance in his power," would seem most conclusively to show that my co-operation was in good faith, and that there was no disobedience of orders as alleged.

The second and concluding specification charges me with violating my understanding with Lieut. Slemmer, in writing to Lieut. Berryman the letter of the 12th, in which I say: "You will continue to co-operate with the commanding officer at Fort Pickens; but should an attack be made, you will not fire a gun unless it be actually necessary in defence of the vessel under your command."

This letter was written in haste a few hours before the surrender by my secretary under dictation. While a fair reading frees it from criticism, I admit that a cavilling spirit may find cause for comment. When in the opening he is directed to "*continue to co-operate* with the commanding officer at Fort Pickens," it is not to be supposed that immediately after I would have given such direc-

tion as to withdraw assistance, when it should be most needed by the fort, to wit, when it should be attacked. When the vessel was anchored at the fort for the purpose of co-operation, she became part and parcel of the fort itself. A shot fired at the fort, would thus be a shot fired at the vessel. How could she be said to co-operate with the fort if this were not so? What I intended, and what it seems to me a fair interpretation justifies, by the use of the words, "not to fire a gun unless it be actually necessary in the defence" of his vessel, was that he was not to commence the attack, but to act wholly on the defensive.

Equally unwarranted is the imputation contained in the allegation, that my letter to Lieut. Berryman was written "without the knowledge of Lieut. Slemmer," conveying as it does a charge of seecresy, and an intention to violate a previous understanding with him. That my letter was written without his knowledge is doubtless true, for I was at the time in my quarters in the Navy Yard, while he was at Fort Pickens. But that it was issued with the design that its contents should be kept from the knowledge of Lieut. Slemmer is wholly false. There is nothing in the evidence to justify such an imputation, neither in the character of the letter itself, nor in any fact stated by the witnesses. His instructions being to co-operate with Lieut. Slemmer, it would have been not only proper, but natural he should have communicated them to him; and in the absence of any evidence to the contrary, I presume he did so.

It will be observed that the only evidence of the existence of this letter is a copy furnished by me to the Department; so that if it justifies the imputation made, I have myself contributed the feather that wings the arrow.

Before concluding, it is but just to say, that had I desired to protect myself from your judgment (for so I am advised by counsel) the law of the land afforded me the most ample means.

By the act of Congress of 24th January, 1857, it is provided: "That no person examined and testifying before either House of Congress, or any committee of either House, shall be held to answer criminally in any court of justice, *or subject to any penalty or forfeiture*, for any fact or act touching which he shall be required to testify," &c., &c.

In January last, under subpoena from the Speaker of the House of Representatives, I appeared before a committee of that body, and was there required to testify, and did testify, as to the very subject-matter on which I am now arraigned before you.

The law of the land, and the recent example of one of the highest Government officials under it, would then have justified me in availing myself of the immunity which the proof of this fact would have afforded. This personal privilege, with a full knowledge of my rights, I have deliberately waived. Throughout this transac-

tion, from first to last, I have not shunned judgment, but courted investigation. I am not willing to hold my honor by mere tolerance, I must wear it in the broad light of day by the judgment of my peers. If on my shield there is a spot or stain, I bear it here before you, that you may mark it for public condemnation.

From childhood to old age I have borne the arduous duties of the service, and been proud of the honors which they conferred. How I have served my country the records of the Department show. Through fifty-two years of professional trial I have passed without one word of censure, one mark of disapprobation.

My reputation in the service for strict obedience to orders, attention to duty, and personal gallantry put in issue by the advice of my counsel, has been sustained, not by friends selected for the purpose, but by every member of the court which sits in judgment on me.

A reputation so characterized, prolonged through more than half a century, is the best answer man may offer to aught that affects his honor. A single act may deceive; a long life of duties faithfully discharged cannot.

Gentlemen, this is not a time when the country can afford to condemn those whom temptation has failed to draw from her support. I could at this moment have been in command at the Warrington yard under another banner; but the flag which the eye of my boyhood so loved to dwell on, is the flag I still revere in old age, and in its ample folds alone will my body in death be transported to "that bourne from whence no traveller returns."

I have thus, I trust, in the spirit of fairness, commented on the evidence of the case. In doing this, I have "nothing extenuated, nor set down aught in malice." All that I have to ask is, that you will carefully test the facts as I have stated them, and maturely consider the conclusions I have drawn.

If there are some circumstances in this transaction not fully explained, remember that those whose evidence was most important to me are now beyond the reach of this court. The power which in its expiring moments summoned you here was the same that in hot haste accepted the resignations of my officers on the very day they were received, thus giving them an honorable discharge, and depriving me of the means of defense.

One word more and I am done. Public opinion in many portions of our country is smarting under the belief that there has been a want of efficiency, and perhaps loyalty, in dealing with the Revolution which in a few brief months has wrenched seven of the stars from our once glorious galaxy. There naturally springs from this a desire that the Government should vindicate itself, and show its energy in some form. At the full flood of this tide of opinion my case in all its political relations and bearings is to be tried by a body of naval officers jealous of the honor of the service,

and naturally desirous to evince their own promptness of action. As men chosen to be my judges I solemnly charge you to guard yourselves against such considerations, and be watchful, lest your minds be tempered through such influences.

I protest against being made the victim of a supposed political necessity. I protest still more against the sacrifice of my rights or my honor to the rehabilitating of the character of any man, or set of men, however exalted may have been their stations.

If public sentiment must be appeased by a victim, on whose head the sins of the nation are to be borne into the wilderness, let him be chosen from the faithless, and not taken from the loyal.

To you, my Peers and Comrades in arms, I now in full confidence leave the vindication of that honor which so long a life has established, and without which life itself is worthless.

Exclude with jealousy all collateral influences, examine with care the facts, considerately weigh the argument, and then "JUDGE YE AS YE WOULD BE JUDGED!"

EVIDENCE AS TO GENERAL REPUTATION.

The following question was propounded to the several members of the court:

"Are you acquainted with the general reputation in the service of Commodore Armstrong, for obedience to orders, strict attention to duty, and personal gallantry?"

ANSWERS.

Commodore Shubrick.

I have never heard anything derogatory to his character in these respects. I served with him in the "Washington 74," the Flag ship of the Mediterranean Squadron, from 1815 to the summer of 1818; we were both lieutenants. I was the senior and he one of the juniors. His character was that of a good and attentive officer.

Commodore Gregory.

I have known him from 1809, when he first entered the service; I have been several times employed on the same station, and once aboard of the same ship. I never heard his character questioned, as to either of the particulars enquired of; and I may add, from my intimate knowledge of him, it could not be questioned.

Commodore Stringham.

I have known him over 45 years. His general character on those points never was questioned; it was perfectly correct. I have served with him in the same squadron, but never in the same ship.

Commodore Mervine.

My personal acquaintance with him is very limited, never having served with him in the same ship. In 1811 I was a midshipman on board the *Syren*, and he was attached to the flotilla lying in the Mississippi, off New Orleans. I left in 1812, and my impression is, he took part in the battle of New Orleans. His reputation in the particulars enquired of is good, and I know he is very highly esteemed by officers of high standing.

Commodore Crabbe.

I have known him since 1816 - '17, but was never associated on duty, except as a member of a court-martial. I always understood his general reputation was good as to the points mentioned. He was always regarded as a very gallant officer.

Commodore Breese.

My acquaintance commenced in 1815. From that time, for 15 or 18 months, we served together on board the "Washington 74." During that period his reputation as a good and correct officer was unimpeached, and his personal courage undoubted.

I have had but occasional intercourse with him since that time, but I believe the public opinion in the service has remained to the same effect.

Commodore Paulding.

I have known him about 38 years; have served with him three years and a half on the same ship. He was a good officer, and attentive to duty as 1st lieutenant. His reputation for gallantry and obedience to orders, I never heard impeached.

Commodore McLuney.

I have never been associated with him on duty, but have known him many years. His general reputation is that of a brave and excellent officer.

Commodore Jarvis.

I have known him for about 30 years. I have never served with him. His general reputation has always been that of a gallant and efficient officer.

Captain Nicholson.

I have known him since 1823. We served together as messmates and lieutenants over three and a half years on the "frigate United States," Commodore Hull. I have always looked upon him as a gallant and efficient officer, and never heard these qualities denied to him.

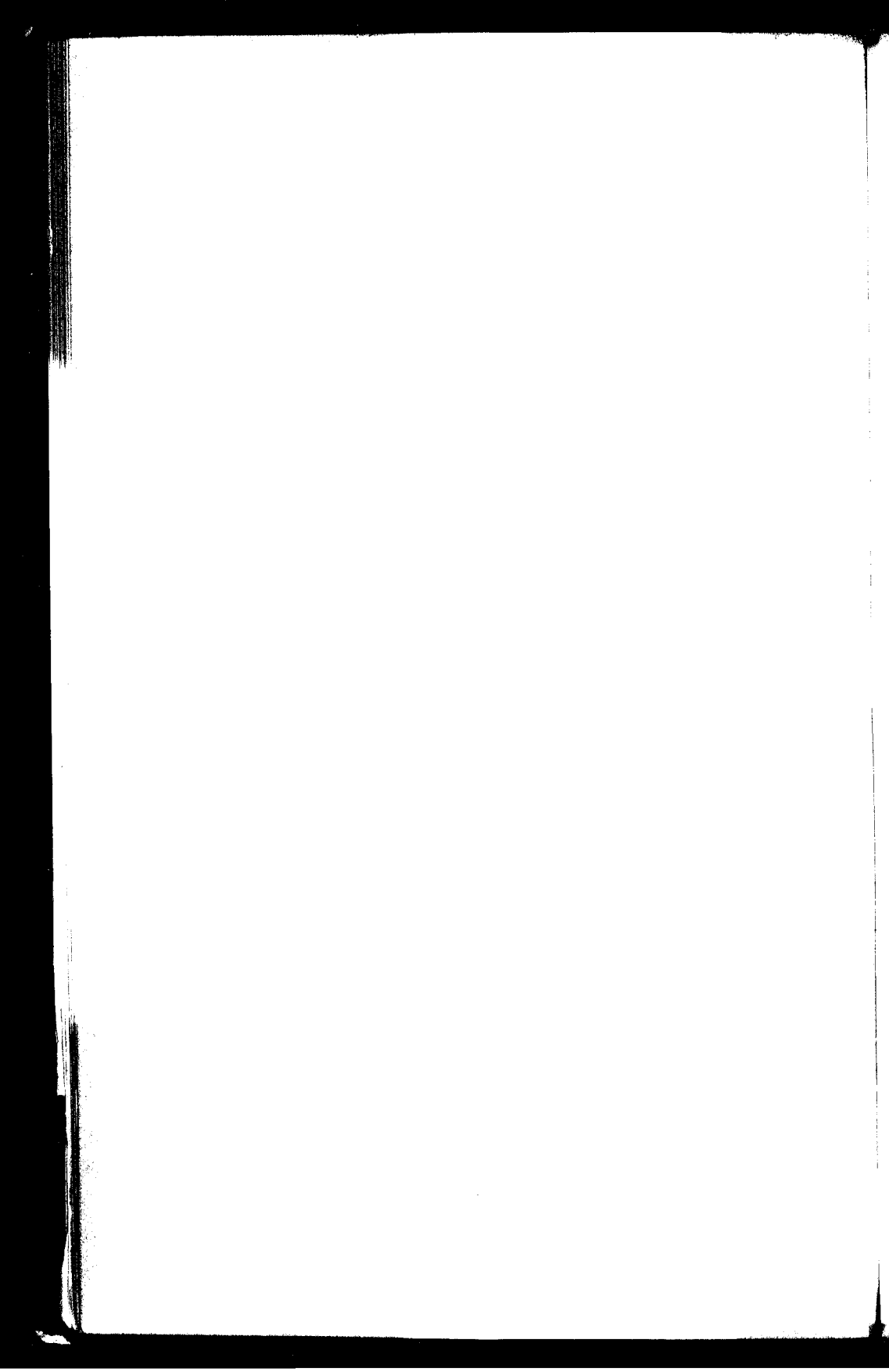
Captain Hull.

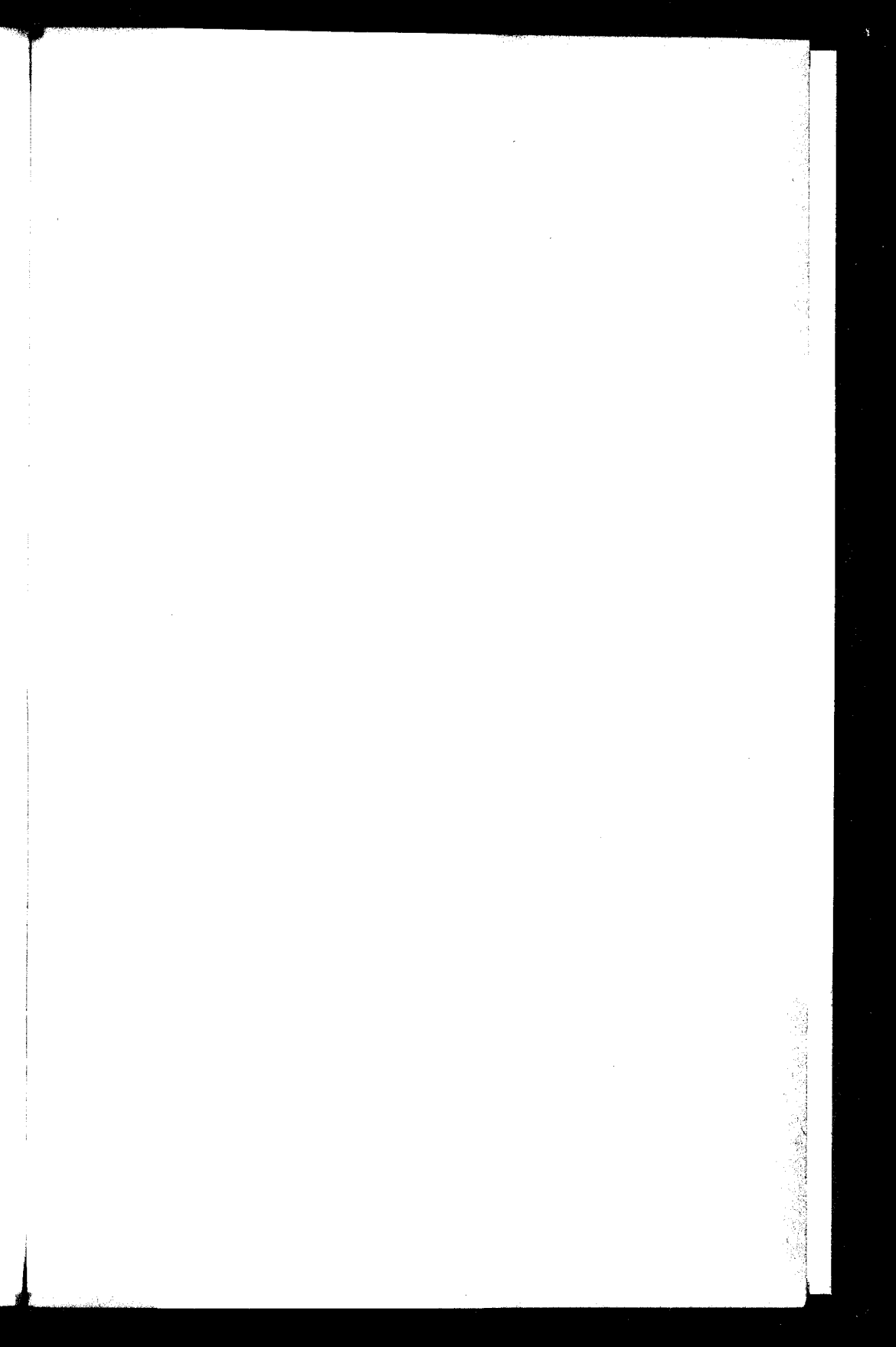
I have known him since 1815. I made two short cruises with him, from 1815 to 1818, and have not been since associated on duty, though I have met him at intervals. So far as I know of his general reputation in the service, it is that of a correct and zealous officer, and I have never heard his personal gallantry questioned.

The same question was propounded to Commander Andrew H. Foote, who was called as a witness by the prosecution, to which he answered as follows:

I have been acquainted with Commodore Armstrong since 1824. I served two cruises with him; one in the same ship, and one while commanding a vessel attached to the squadron under his command. As an officer of personal courage and gallantry, I never heard him questioned in the service. I consider him a very strict construc-

tionist, and desirous of serving the Government to the best of his ability; cautious before acting to give every subject a good deal of consideration. I had an opportunity of witnessing his bearing while under fire on the occasion of the attack upon the barrier forts in the River Canton. In ascending the river for that purpose, the *Levant* got aground. At that time he was so ill that the fleet surgeon and all of us thought his life would terminate before the cruise. There not being water enough for his Flagship, he transferred his flag to the *Portsmouth*, then under my command, and I was directed to put the ship in position, as he was too ill and could not well see. After casting off the towing steamer, we ran up 4 or 500 yards under fire towards the forts, and came to anchor 490 yards from the heaviest and most effective of them; we then opened fire, which lasted for more than two hours, and until the forts were silenced. Commodore Armstrong during that time stood on the poop in an exposed place with his spy-glass in hand, calling to me occasionally to tell me of the effect of certain shots, admiring the accuracy of our fire, and the danger it was effecting, exhibiting throughout as much coolness and bravery as any one could do on such an occasion. These forts mounted 176 guns, though they did not all bear upon our ship. The reaction after this exposure was so great that it culminated in a violent attack of pluryisy, and the fleet surgeon insisted upon his return to his own vessel.





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