

...was answered by the positive oath of Captain Jerkins who was a competent witness; and that the licenses were intended as a fraud upon the enemy; a practice which is always permitted.

Upon the 2d point the counsel for the claimants relied upon, 2d Rutherford's Inst. 564. 3 Rob. Re. 160—184. Marten's—2 Azuma 354—362 and Bro. C. and Ad. law. 461.

The counsel for the libellants took a survey of the evidence, and endeavored to show by fair inference the unlawful purpose of the claimants. He admitted that the claim and answer as sworn to by Captain Jerkins should be taken as though the Capt. had been examined on interrogatories. Upon the 2d point he introduced and relied upon as conclusive authorities, Brown's C. & Ad. law. 281—2. 453. and 8 Term Re. 224.

The Chief Justice asked if Capt. Jerkins was a competent witness, and being answered by the libellant's counsel that he was, he was clearly of opinion that the charge against the schooner had no foundation. He remarked upon the regularity of the ordinary papers—he thought the letter of advice contained no evidence of criminal intent, but rather the contrary. He stated the question to be, whether the claimants intended a voyage to an enemy port or not. But he saw no evidence of such intention, save that of the license: That it was common and not at all improper to carry papers to deceive the enemy; that the carrying of the license was to enable them to prosecute a voyage to a neutral port under the protection of the license; and that the evidence of Captain Jerkins cleared the case of all doubt by stating the real object, and positively denying the inference drawn from the license.

Here the libellants counsel called the attention of the Chief Justice to the fact that Jerkins was part owner of the schooner & cargo, a circumstance not recollected when the concession was made. The Chief Justice immediately replied that he was interested and of course incompetent. The counsel for the claimants then argued that this answer should be received as an answer in chancery; and if so, the answer is to be taken as true until it be disproved. The Chief Justice admitted the rule in the court of chancery, as to the negative matter of an answer, but not in a case where it asserts a right affirmatively in opposition to the complainant's demand: But he took this distinction between a case in chancery and a case in admiralty: In the former, the complainant calls upon the defendant to purge his conscience and disclose facts; and by this appeal to his conscience the complainant makes the answer evidence: In the latter case, no such demand or appeal is made.

The Chief Justice then said that the case was very different from what he conceived of under the evidence of Jerkins; and expressed a willingness to let it lie over for further proof if the libellants had a prospect of obtaining any; but being told they had not, he said he was still of the same opinion; and affirmed the decree of the District Court. He also decreed the restoration of the property, but without damages.

He gave no opinion upon the 2d point.

FOREIGN NEWS.

LATEST FROM EUROPE.

New York, May 18.
Extract of a letter to the Editors of the Mercantile Advertiser.

Boston, May 15.
The ship Brutus has arrived at Newport from Liverpool. She brings ten thousand letters, dispatches for government, and London papers to the 7th April. Affairs continued favorable to the Russians on the continent, and there were negotiations in some of Bonaparte's provinces. The British were preparing an expedition to Hanover.

The Austrian Envoy had arrived in London. It is said, his object was to mediate a general peace. British requires that France shall evacuate Spain.

A new squadron is named as being ready to depart for America with 2000 troops and 10,000 rockets.

Extract of another letter to the same, dated 8 o'clock in the evening.

Arrived this evening, brig Charles, Oxnard, 30 days from Cadiz. Sailed April 15. On Wednesday, (May 12) lat. 12, long. 66, 50, the Charles was boarded from La Hogue, 74; detained some time, plundered, and threatened to be burnt, (notwithstanding she had a license) and at last liberated, to bring home the captain and crew of the ship Acton, Rogers, from Cadiz, for Boston, with a license. The Acton had just been taken, plundered, and set on fire. The captain of La Hogue said,

his government had permitted the licenses long enough, and if it did not put a stop to them the navy should; that he had been cruising on this dangerous coast a long time, and almost every vessel he chased and brought to had a license! Captain Capel, of La Hogue, treated the American captains and passengers very ill, taking their private property, and permitting the vessels to be plundered. Every preparation was made for burning the Charles—but at length she was released, as before stated.

THE WAR.

GOOD NEWS, FROM THE NORTH-WESTERN ARMY, THE ENEMY REPULSED.

Copy of a letter from Gen'l W. H. Harrison to the Secretary of War.

Head Quarters, Camp Meigs, 9th May, 1813.

SIR—I have the honor to inform you that the enemy having been several days making preparations for raising the siege of this post, accomplished this day the removal of their artillery from the opposite bank, and about 12 o'clock left their encampment below, were soon embarked and out of sight. I have the honor to enclose you an agreement entered into between Gen. Proctor and myself for the discharge of the prisoners of the Kentucky militia in his possession, and for the exchange of the officers and men of the regular troops which were respectively possessed by us. My anxiety to get the Kentucky troops released as early as possible, induced me to agree to the dismissal of all the prisoners I had, although there was not as many of ours in Gen. Proctor's possession. The surplusage is to be accounted for, and an equal number of ours released from their parole, whenever the government may think proper to direct.

The two actions on this side of the river on the 5th, were infinitely more important & more honorable to our arms, than I had at first conceived. In the sortie made upon the left flank, Captain Waring's company of the 19th regt. a detachment of 12 months volunteers under Maj. Alexander, and three companies of Kentucky militia under Col. Boswell, defeated at least double the number of Indians and British militia.

The sortie on the right was still more glorious; the British batteries in that direction were defended by the grenadier and light infantry companies of the forty-first regiment amounting to 200 effectives and two companies of militia, flanked by a host of Indians. The detachment sent to attack those consisted of all the men of duty belonging to the companies of Croghan and Bradford of the 17th regt. Langham Elliott's (late Graham's) and Waring's of the 19th, about 80 of Major Alexander's volunteers, and a single company of Kentucky militia under Capt. Seby, amounting in the whole to not more than 340. Yet the event of the action was not a moment doubtful, and had not the British troops been covered in their retreat by their allies, the whole of them would have been taken.

It is not possible for troops to behave better than ours did throughout; all the officers exerted themselves to execute my orders, and the enemy, who had a full view of our operations from the opposite shore, declared that they had never seen so much work performed in so short a time.

To all the commandants of corps I feel particular obligations. These were Colonel Miller of the 19th infantry, Col. Mills of the Ohio militia, Maj. Stoddard of the artillery, Maj. Ball of the dragoons, and Maj. Johnson of the Kentucky militia. Captain Gratiot of the engineers having been for a long time much indisposed, the task of fortifying this post devolved upon Captain Wood. It could not have been placed in better hands. Permit me to recommend him to the President, and to assure you that any mark of his approbation bestowed on Capt. Wood, would be highly gratifying to the whole of the troops who witnessed his arduous exertions.

From Major Hukill, acting Inspector General, my aid-de-camp Major Graham, Lieutenant O'Fallon, who has done the duty of assistant Adjutant General in the absence of Major Adams, & my volunteer aid-de-camp John Johnson, Esq. I received the most useful assistance.

I have the honor to enclose you a list of the killed and wounded during the siege and in the two sorties; those of the latter were much greater than I had at first expected.

Want of sleep and exposure to the continued rains which have fallen almost every day for some time past, renders me incapable of mentioning many interesting particulars; amongst others a most extraordinary proposition of Gen. Proctor's, on the subject of the Indians within our boundary—this shall form the subject of a communication to be made to-morrow or next day, and for which I will provide a safer conveyance than that which carries this. All the prisoners and deserters agree in saying that the information given to Major Stoddard by Byland of the British having launched a sloop of war this spring, is incorrect, & the most of them say that the one which is now building will not be launched for many weeks.

I have the honor to be, sir, with great respect, your humble servant,

WM. H. HARRISON.

His. John Armstrong, Sec'y of War.

P. S.—Captain Price of the regiment light artillery, and the 20 regulars, prisoners with Gen. Proctor, were taken on the N. W. side of the river, with the Kentucky militia. We had no prisoners taken on this side during the siege.

Copy of a dispatch from Major General William H. Harrison, to the Secretary at War, dated

Head Quarters, Lower Sandusky, May 13th, 1813.

SIR—Having ascertained that the enemy (Indians as well as British) had entirely abandoned the neighborhood of the Rapids, I left the command of Camp Meigs with Gen. Clay, and came here last night. It is with the greatest satisfaction, I inform you, sir, that I have every reason to believe, that the loss of the Kentucky troops in killed on the N. W. side of the river does not exceed fifty. On the 10th and 11th inst. I caused the ground which was the scene of

Gen. Harrison's account of these sorties, and of Clay's affair, has not been received.

the action and its environs to be carefully examined, and after the most diligent search 45 bodies only of our men were discovered—amongst them was the leader of the detachment Col. Dudley. No other officer of note fell in the action. I have strong reason to believe that a considerable number of the Kentuckians effected their retreat up the river to Fort Winchester. General Proctor did not furnish me with a return of the prisoners in his possession, although repeatedly promised. His retreat was as precipitate as it could properly be, leaving a number of cannon ball, a new elegant sling-carriage for cannon, and other valuable articles. The night before his departure two persons that were employed in the British Gun Boats (Americans by birth) deserted to us. The information they gave me was very interesting—they say that the Indians, of which there were from 1600 to 2000, left the British the day before their departure in a high state of dissatisfaction, from the great loss which they had sustained in the several engagements of the 5th, and the failure of the British in accomplishing their promise of taking the post at the Rapids. From the account given by these men, my opinion is confirmed of the great superiority of the enemy which were defeated by our troops in the two sallies made on the 5th inst. That led by Colonel Miller did not exceed 350 men, and it is very certain that they defeated 200 British regulars, 150 militia, and 4 or 500 Indians. That American Regulars though they were raw recruits, such men as compose the Pittsburg, Penn. and Petersburg, Va. Volunteers, should behave well, is not to be wondered at—but that a company of militia should maintain its ground against four times its numbers, as did Capt. Seby's of the Kentucky, is truly astonishing. These brave fellows were at length however entirely surrounded by Indians, and would have been entirely cut off, but for the gallantry of Lieut. Gwynne of the 19th Regiment, who, with part of Captain Elliott's company, charged the enemy and released the Kentuckians. I enclose you a list of the killed and wounded during the whole siege. It is considerably larger than I had supposed it would be when I last wrote to you—but it is satisfactory to know that they did not bleed uselessly—but in the course of successful exertions. The return does not embrace those who fell on the N. W. side of the Miami.

You will also receive herewith a monthly return of the troops at Camp Meigs for the last month; the communication with the other posts being cut off, the returns were not received. A copy of Gen. Clay's report to me of the manner of his executing my order for the attack on the enemies' batteries, is likewise forwarded, by which it will be seen that my intentions were perfectly understood, and the great facility with which they might have been executed is apparent to every individual who witnessed the scene. Indeed the cannon might have been spiked, the carriages cut to pieces, the magazine destroyed and the retreat effected to the boats without the loss of a man, as none were killed in taking the batteries, so complete was the surprize.

An extensive open plain intervenes between the river and the hill upon which the batteries of the enemy were placed; this plain was raked by four of our eighteen pounders, a twelve and a six. The enemy, even before their guns were spiked, could not have brought one to bear upon it. So perfectly secured was their retreat that the 150 men who came off effected it without loss and brought off some of the wounded, one of them upon the backs of his comrades. The Indians followed them to the woods but dared not enter into the plain.

I am unable to form a correct estimate of the enemy's force. The prisoners varied much in their accounts; those who made them least, stated the regulars at 550 and militia at 800; but the numbers of Indians were beyond comparison greater than have ever been bro't into the field before; numbers arrived after the siege commenced. I have caused their camps on the southeast side of the river to be particularly examined, and the general opinion is, that there could not have been fewer on that side than 1000 or 1200; they were indeed the efficient force of the enemy.

I have the honor to acknowledge the receipt of your favors of the 14th, 18th and 28th ult. and 4th inst.

I am sorry to inform you that Major Stoddard died the night before I left the Rapids, of a lock-jaw, produced by a slight wound from a fragment of a shell which struck him on the thigh. Several have died in this way from their great and unavoidable exposure to the cold; but perhaps there never were so many instances of desperate wounds being likely to do well.

The gallant captain Bradford will recover.

I shall go from here to Upper Sandusky, and shall take my station at Delaware or Franklinton until the troops are assembled. General Clay, who commands at the Rapids, is a man of capacity and entirely to be relied on.

I have the honor to be, &c.
WM. HENRY HARRISON,
The hon. JOHN ARMSTRONG,
Secretary at War.

Copy of a letter from General Clay to Gen. Harrison.

Camp at Fort Meigs, May 7, 1813.

SIR—On the 5th inst. about 8 o'clock A. M. descending the Miami of the Lake about midway the Rapids, with 200 of the Kentucky troops in 18 flat bottomed boats, I was met by Captain Hamilton and a subaltern, who delivered me (as he said) the orders of Major General Harrison to the following effect.

"You must detach about 800 men from your brigade, who will land at a point I will shew about one or one and a half miles above the Fort, and I will conduct them to the British batteries on the left bank of the river. They must take possession of the enemies' cannon, spike them, cut down the carriages, and return to their boats."

Observing that the British force at their large batteries was inconsiderable, but that their main force was at the old garrison about 1 1/2 miles below on the same side of the river; that the Indian forces were chiefly on the right bank of the river: "The balance of the men under your command must land on the right bank opposite the first landing, and will fight their way through the Indians to the Fort," observing that the route thus to be taken would be shewn by a subaltern officer there, in company with Captain Hamilton, who would land the Perogue at the point on the right bank, at which the boats would land.

The order of descending the river in boats was the same as the order of march in line of battle in solid column, each officer taking position according to his rank. Col. Dudley, the eldest colonel, led the van, and in this order the river had been descended. As soon as Capt. Hamilton had delivered these orders, being in the thirteenth boat from the front, I directed him to proceed immediately to Col. Dudley and order him to take the men in the 12 front boats, and execute Gen. Harrison's orders on the left bank of the river; and post his (Captain Hamilton's) subaltern on the right bank to conduct myself with the men in the six rear boats to the Fort. I ordered the 5 boats in the rear to fall in a line and follow me—High winds and the rapidity of the current drove four of the rear boats ashore in the attempt to follow on according to order where they remained a short time, sufficient however to detain them half or 3 quarters of a mile in the rear. To land according to order I kept close along the right bank until opposite Col. Dudley's landing. There I found no guide left to conduct me to the Fort as Capt. Hamilton had promised. I then made an attempt to cross the river and join Col. Dudley, but from the rapid current on the falls I was unable to land on the point with him. Being nearly half way across the river, and the waves running too high to risk the boat then driving down the current sideways—veered about the boat and rowed the best way we could to save our boat. My attempt to cross the river to Col. Dudley occasioned all the boats (I presume in the rear of me) and which were then out of hailing distance to cross over and land with Col. Dudley. Having been defeated in a landing on the left, we then endeavored to effect one on the right, even without a guide: But before a landing could be effected we received a brisk fire from the enemy on shore, which was returned and kept up on both sides. And I was in this unavoidable situation compelled to make to Fort Meigs with no other force than about 50 men on board (the other boats being still in the rear) and to receive the enemy's fire until we arrived under the protection of the fort. Col. Boswell's command (except the men in my boat) having landed to join Colonel Dudley, were, as I have been informed, ordered by Capt. Hamilton immediately to embark and land on the right hand shore about a mile above the fort and prepare to fight his way through to the garrison.

The colonel embarked, landed as he conceived at the proper point, pursuant to Captain Hamilton's order, and was forming his men in order of battle, when he was met by Capt. Shaw, and ordered to march into the garrison at open order, the safest route.

When my own boat landed we were met by two men who took charge of the boat as we understood to bring her under the protection of the fort batteries. Believing our baggage to be thus made safe we forbid our servants to carry any portion of it, but loaded them with cannon ball which they bore to the fort. Our baggage was however taken by the Indians in a very short time after we left the boat. Upon receiving the orders of Captain Hamilton, I asked if he had brought spikes to spike the enemy's cannon. To which he replied he had plenty.

I am, sir, &c.
GREEN CLAY, Brig. Gen.
His Excellency
Maj. Gen. Harrison.

P. S. Captain Hamilton on delivering the orders of Gen. Harrison, observed that the object of landing and marching a portion of the troops on the right bank was to draw the attention of the Indians, and by thus engaging them afford an opportunity to the Garrison to make a sally and by a circuitous route surprize and carry the batteries and

cannon of the enemy below the fort on the right bank.

A true copy,
G. C. Bg. Gen.
G. CROGHAN, A. D. C.

Return of the killed and wounded in the siege of Camp Meigs, and the several sorties of the 5th inst.

U. S. Artill. 1 killed.
U. S. Inf. 59 killed, 90 wounded, aggregate 149
U. S. Drag. 3 do. 17 do. do. 20
Ken. Milit. 30 do. 42 do. do. 72
Ohio Milit. 3 do. 8 do. do. 11
42 mc. Vol. 2 do. 29 do. do. 31
Detachment of In. of 3 do. 3 do. do. 6
the U. S.

Tot. killed 81 tot. wd. 189 tot. kill. & wd. 280

REMARKS.
Majors Stoddard and Hukill—the former died of his wounds, the latter slightly wounded.

Sixty four of the above were killed in the sorties, and one hundred and twenty five wounded: the balance, eighty one, killed & wounded within the fortified camp.

J. O. FALLEN,
Acting Ass. Adj. General.

VICTORY OF YORK.

The letter of the brave but unfortunate captain MOORE, while it has filled with sorrow the hearts of those whose friends were killed or wounded in battle, has placed the victory of York in a more brilliant light than any which it has hitherto been seen. It may indeed prove the ground work of speedy and decisive success in an attempt to conquer and occupy the province of Upper Canada. In this signal triumph of the American arms, the traduced corps of Baltimore volunteers have performed their duty, with honor to themselves and credit to the city. They have alike put their calumniators, who accuse them of being destitute of courage, to shame, and their foreign enemies to flight. Abhorred be the man who unjustly reviles the gallant soldier while defending his country's rights and advancing its glory in distant regions!

BALTIMORE VOLUNTEERS.

Extract of a letter from Stephen H. Moore, captain of the Baltimore Volunteers, to his brother in this city, dated

NIAGARA 5th May, 1813.

"I last wrote you from the Harbor, stating that I was then about to embark with my company, together with Gen. Pike's brigade, for the purpose of making a descent on the Canada shore. I have to inform you now of the result, which has been victorious and glorious to the American arms although peculiarly unfortunate to me. We arrived at the head of the Lake Ontario on Tuesday morning, the 27th ult. and embarked the forces about a mile above York, the capital of Upper Canada: here we were met on the beach by about five hundred British regulars and 250 Indians; we contended with them warmly for about one hour, when we succeeded in driving them before us, and made good our landing, with the loss of some brave officers and about 40 men killed or wounded. We then formed immediately, moved on to York, and when arrived just at the opening of the main street, the enemy sprung a mine upon us, which destroyed about 60 of our own men, and killed or maimed about 150 of our men. This horrible explosion has deprived me of my left leg, and otherwise grievously wounded me. I was taken from the field, carried on board the commodore's ship, where my leg was amputated, and I am now likely to recover. Two of my company were killed at the same time, and four or five more of my brave fellows were severely wounded—now out of danger.

"We have taken the capital of the enemy and about a million and a half worth of public stores and other property. We have killed and wounded about 300 British and their savage allies, and have taken prisoners about 700 men. We have taken from them also several vessels of war, which were found in the harbor, and destroyed a 32 gun frigate, then on the stocks.

"This is the severest blow the British have felt since the war, and is to them irreparable—it will teach them a lesson of American bravery, which they cannot so forget. The conquest of Upper Canada is now no longer doubtful, as almost all the guns, munitions of war and provisions, necessary to carry on the present campaign, were deposited at York, and have been taken by us. General PIKE, however, the brave and gallant projector of this enterprise, fell in the very moment of complete victory, at the head of his column. We have suffered severely in loss of officers—2 captains and 14 lieutenants having been killed, and 5 captains and 5 lieutenants wounded. My wound, they say, is a very good one, but it has maimed me for life. "Lieut. Irving received a bayonet through his right shoulder, at the moment of stepping out of the boat, but is doing very well. "P. S. My company distinguished themselves gloriously, and were noticed in their determined spirit."

Extract of a letter from Maj. General Dearborn to the Secretary of War, dated

Niagara, May

"As nearly as I have been able to ascertain, the loss of the enemy in the late battle of York amounted to one hundred killed, two hundred prisoners and three hundred wounded. I have not been able to ascertain precisely the amount of the militia put in their parole—I presume it could not be less than five hundred. There was an immense depot of naval and Military stores, and a magazine for Niagara, Detroit, &c. and notwithstanding the immense amount which was destroyed by them, we were more than we could bring off. Gen. Dearborn's baggage and papers fell into my hands. A list of papers are a valuable acquisition. A list was found in the Executive and Legislative Council Chamber, suspended near the speaker's chair in company with the mace."