

Captain VanDyke having been excused Lieutenant James Rogers was appointed Judge Advocate.

Major General Robinson and Major M. M^c = Kinney not appearing, - Lieut. Col. John Caldwell was appointed by his Excellency, the President of the said Court, and Captain C. A. Rodney and Captain A. VanDyke are detailed by the Adjutant Genl. under an order of his Excellency, as additional members of the said Court.

Lieut. Col. J. Caldwell President and the following members viz.

Lieut. Col. David Nivin.

Major John Moody,

Major Patrick M^cConnaughey

Major Oliver R. Howell

Major John Brown -

Lieut. Col. Joshua Carter

Major Joseph Grubb

Major Samuel Moore

Capt. Christopher Vandegrift.

Capt. James Miles, -

were respectively sworn and affirmed in the presence of Major Bennett; - and Lieut. James Rogers Judge Advocate was sworn by the President.

Major C. P. Bennett appeared before the Court and objected to the said Captain Rodney as a member of the said Court; - and thereupon the Court decided that the objection be allowed.

The Court adjourned till 1/2 past 3 o'clock.

Court met

Captain VanDyke detailed by the Adjutant Genl. by order of his Excellency as a member of the Court appeared, - and was objected to by Major Bennett.

The objection was allowed by the Court.

Major Bennett now applied to the Court for permission to be heard by Counsel; - which was refused.

by the Court. But the Court granted him permission to have counsel to prepare his defence.

It was moved by Major Moore (a member) that the Court be adjourned until the first Thursday in August next. Major Crow moved that the motion of Major Moore be postponed; - and it was decided in the affirmative. -

Adjourned until tomorrow morning at 10 o'clock.

The Court met.

Captain Frederick Leonard & Captain John Warner & Captain Bennett Downs having been detailed by the Adjutant Genl. by order of his Excellency the Governor and Commander in chief; - Capt. Leonard appeared and was sworn.

Court adjourned until 3 o'clock P.M. -

The Court met.

Capt. Bennett Downs appeared and was sworn as a member of the Court.

Major Bennett submits to the Court the following preliminary matter of consideration, -

"Major Bennett alleges that the arrest under which he is brought before this Court ^{was} illegal, - inasmuch as Major J. R. Black was not at the time he acted as arresting officer the Brigade Inspector according to law, - as in the order to him for the arrest of Major C. P. Bennett, he is described to be; - nor was he at the said time a militia officer recognised by the laws of the State of Delaware."

David Morison a witness for Major Bennett - upon the preliminary question, was sworn. -

Question by Major Bennett. Has the 1st. Company of Artillery been called out by Lieut. Black since the appointment of its late Captain to the post of Major? - Answer. No.

Question by the same. Do you consider the company dissolved? - Answer. I do. -

Question by the Prosecutor. What number did the company consist of for two years past? -

Answer. Before they were detached it consisted of from 35 to 40.

Question by a member. What number did this company consist of for 1 month before the 31st. of May last? -

Answer. After the last of November I did not consider the company as existing.

Question by a member. When Major Black was appointed a Brigade inspector was the company full? - Answer. It was.

Question by Major Bennett. Had you notice by Capt. Steele to attend in the District Company? - Answer. I had not. I am exempt as Postmaster. -

Question by the President. Was there any proposition for this company to unite with Captain Van Dyke's. - Ans. Not to my knowledge. -

Martin Kennedy sworn on same point. -

Question by Major Bennett. Did you consider the company dissolved after November last? - Ans. I did. -

Question by Maj. Bennett. Did you receive notice from Captain Steele to attend the Battalion in his district company? - Ans. I did, and attended. -

The Court having considered the preliminary question and the evidence in its support, - adjudge & determine, that James R. Black Brigade Major, was at the time of the arrest of Major Bennett a Militia Officer recognized by the laws of Delaware; and that the said Major Bennett was duly and legally arrested. -