

as to an opposition to orders, such as the Prisoner stands charged with. - Such an offence, is neither within the letter nor the spirit, of a single article of War; and for this obvious reason, - it is always contemplated, that every officer, who has any connection with the subject of any order, will of course receive that order, officially, from the proper source, and if he neglect it, or oppose it, will be guilty, of what is clearly marked out, as an unmilitary act, viz: Disobedience of orders. It seems, therefore, to the Prisoner to follow, that, in whatever light, this Court may view his conduct, as he has not violated any of the Rules, which our Legislative authorities have prescribed for the Government of the Militia, he is certainly not amenable, at this Tribunal. The contrary doctrine, would change the whole effect, as well as intention, of our system of Laws; which being intended, for personal security, are, and ought to be plain, in their enumeration of offences, and not susceptible of strained, or artificial constructions. It is proper to add, that not only, there was no official notice, of the order of the 6<sup>th</sup> of May, 1814, given to the Prisoner, but that there existed no intention, on the part of the superior officers, to intimate unofficially even, his wishes in relation to the Artillery, to the Major of that Battalion. If the General had, (as the Prisoner in the course of his defence will show he ought to have done,) ordered out the Battalion, or any part of it, thro' Major Bennett, then the Major, being officially informed of the order, & would have been guilty of unmilitary conduct, in disobeying it. In this case, the Facts are avowedly different. No order was issued to the Prisoner, nor were those which were

were directed, to his inferior officers, communicated to him, by the direction of the General. Any official act, therefore, of the Prisoner, can never be construed into a breach, of Military Law, because in its effect, it might happen to <sup>interfere</sup> ~~interfere~~ with the orders of another officer, not addressed to him, and of which as an officer, he knew nothing. If the General, should issue his orders to the Captains, instead of to the Colonels, would any order of the Colonels, which interfered with the arrangements of the General, be unmilitary? and, if the Major of Artillery, in the exercise of an undoubted authority, over his own Battalion, could interfere, in any possible way, with the arrangements of the General, does not this very fact demonstrate, that the General ought to have prevented, any possibility of collision, by addressing his orders, in the usual and regular mode, to all officers who might be affected by them? Such a course, which the Prisoner hopes to shew is dictated by Military Law, is certainly, according to the principles, of sound common sense. It follows from what has now been urged, that the Prisoner having no information, in the proper mode, of General Stockton's orders, could not have been guilty of opposition to, or Disobedience of them. The Prisoner calls the attention of the Court, to the proof which <sup>is</sup> adduced of his alleged opposition. The only proof is his order of the twenty eighth of May last. He alleges, that this order proves <sub>nothing</sub>

nothing, unless it could have been connected, with such subsequent conduct, of his, as evidenced an intention, of preventing the Companies, under Captains Rodney and Wilson from attending the Review of the first Regiment. The Prisoner, having been arrested immediately after the issuing of the Order referred to, and previous to the day of Review, no act of his, can be, or has been shown to this Court, as evidence of his intention, to oppose the Orders in question. He might very easily, from the proximity of the two places designated for parade, in the several Brigade and Battalion Orders, have marched the Artillery Companies, to the ground occupied by the Regiment, and have been quite in time, for the forming of the Line. It ought now to be presumed, that such would have been his conduct, from his own frequently expressed intentions, so to do; and if, by arresting the Prisoner, the General deprived him, of the opportunity of manifesting his intentions by his conduct, no inference ought to be drawn from his orders, which, if he had not been arrested, might, by him, have been perfectly reconciled, to those of the General.

It becomes now material, in reply to the Charges of the General having opposed the orders, of the Brigadier General, and solicited others, to assist in that opposition, to enquire into the nature of those orders, and to consider, how far they are regular, and legal. An attentive consideration of them, the Prisoner believes, and is advised, will sufficiently evince, their total irregularity. And, if they are not such as they ought to have been, issued improperly, and without a due regard, to Military Rules,