

The court adjourned to the 10<sup>th</sup> of August.

August 10<sup>th</sup> 1814.

Court met pursuant to adjournment.

Major ~~was~~ Bennett was called  
upon by the President of the court, for  
his defence - which was submitted  
as follows. —

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*The Answer and Defence, of Major Caleb P. Bennett, to the charges exhibited against him, at a General Court martial, by Brigadier General Stockton, for an alleged violation, of Military Law.*

The Prisoner in his own proper person, comes into the said Court, and protesting, that the arrest, under, and by which, he is brought before the same, was, and is illegal, inasmuch, as it was made by James R. Black, Esquire, calling himself Brigade Major and Inspector, when in fact by the plain letter, and intention of the Militia Law, of the State of Delaware, the said James R. Black, Esquire, was then, and now is incapable, of holding and exercising the said Office, because he was not then, nor now is, "one of the Line of subalterns", as by the said Law he is required to be, in order to his acting, as Brigade Inspector, all of which, to this Court, has been made fully to appear; - and also protesting, that there is no charge, particularly alleged against him, to which he is, or can be bound, to answer, - He offers in his Defence, the following observations, on the Facts, which have been, in the course of this Trial disclosed. -

*The First charge, viz: "for ordering Capt: C. Rodney's and Capt: D. Wilson's Companies to parade the 6.<sup>th</sup> of June, 1814, at Mendenhall's Old fields, - knowingly in direct opposition to the Orders of Brigadier General Stockton: - alleges the opposition of the Prisoner, to the Orders of the General: and the Second charge, viz: "After the Major's arrest, he then solicited the Officers to parade, at the time and place ordered by him, in defiance of the General's Orders, for those Companies*

"companies to parade with the First Regiment, on that day," further alleges that the Prisoner <sup>solicited</sup> other Officers, to support him in that opposition. - These charges are considered so uncertain, vague, and unsubstantial, that the Prisoner feels no little difficulty, how to discover their precise import, so as to meet them fully, and fairly. If Disobedience of Orders, and a design to engage other Officers, to support him, in that disobedience, had been alleged - against him, as a Military man he should have understood the charges. If such be the import of the charges, (and if it be not, he is at a loss to discover, how the words, can be made to convey, any charge at all;) He answers, by denying all Disobedience of Orders, and in support of his denial, appeals to the Testimony before the Court, by which it most clearly appears, that no orders has ever been received by him, as Major, from General Stockton, except the one for his arrest. It will, it is presumed, be readily conceded that the Rules and Articles of War, were intended to ascertain, and define the duties of officers, and soldiers, and to mark, with precision, what acts, should be treated, as military offences. With this view, a great number of offences have been specified, as Breaches of Military Law. The inference is an obvious one; - That offences, not specified, could never have been within the meaning of the Law, nor could be subjected to its penalties. We look in vain, after the most careful examination, for any provision

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