interrogatories were put and the promptitude of my answers when last before you, I fear some misapprehension may have occurred. I therefore beg leave to explain the facts to which the interrogatories appeared to be pointed, which I trust I shall be able to do clearly, concisely and satisfactorily.

The only explanation of the cyphered letters of col. B. transmitted by Swartwout and Bollman which I have made, was done hastily and by piecemeal at Natchitoches; I think I have called this an imperfect interpretation, and I have done so, because although it gave me their full sense, yet by omissions and abbreviations, it could not be well understood by another. On reflexion, I think it was from this document, and not from notes, that the purport of col. B's. letters was given to the legislative council and representatives of the territory of Orleans. I find the summons from the House, bears date the 12th of Jan. last, and I believe the examination commenced the 17th. It lasted two days, and therefore I cannot recollect the particular course of circumstances. I find by references to my papers, that certain documents were submitted to the clerk to be read under restrictions, and it is probable I carried with me to the house, all the papers respecting the subject of inquiry. I have some impression that this same document was proffered to the grand jury, to aid them in their interpretation of the cyphered letters of col. B. but I cannot speak with certainty. This examination lasted several days, and like that before the legislative council and representatives of the territory of Orleans, was diffuse, desultory and complicated, and therefore it is impossible for me to charge my memory with minutiæ. The interpretation of Mr. Duncan was made the 25th or 26th of December, 1806, twenty days before my examination by the legislative council and representatives of the territory of Orleans. I did not transmit an interpretation of the cyphered letter to the President, but I well recollect explaining it to Mr. Isaac Briggs, the confidential messenger sent with my letter of the 12th of November, who was charged also to make oral communications to the President. By reference to the original letter, it will be found that a deposition is attached to it: this was done preparatory to the transmittal of it to the President, as was my intention by a special messenger, but the fear that it might be lost changed my determination. I kept in my possession and brought it with me. Referring to col. B's letter of the 10th of October 1800, I have said, that I believe the cypher depending on the book was formed in that year, yet it may have been afterwards. I perfectly remember, that about that period, colonel Burr informed me he had to send 150 miles for the counterpart of the book, and also in answer to a letter, I wrote him from the frontier of Georgia, the Oconee river in the year 1802, he then being in Charleston, he informed me he could not write as freely as he wished, as he had not the cypher with him. In accounting for the erasure of the duplicate of col. B's. letters, I have mentioned the apprehension which had been excited of my being an accomplice of col. B's. and that I was preparing for his reception. This device had excited such alarm, and the friends of government were so incensad, that I was cautioned by Silas Dinsmore, esq. to take care how I moved, as I was in danger of being tarred and feathered.

After gen. Wilkinson had finished his address to the court, *Mr. Martin* asked him if he had the original translation of the cyphered letter of col. B. His answer was—I have not. I have looked for it, but cannot find it.

Gen. Wilkinson then said, that he wished to present the deposition of captain Walback, formerly a member of his family. It went to explain his very general habit of corresponding in cypher—(See the deposition of captain J. B. Walback—) *Mr. Wickham.* Have you ever accurately decyphered the letter sent to the President? A. No. I have said before that the only interpretation I ever made, was hastily done at Natchitoches. *Mr. Wickham.* Then you are not able now to point out the difference between Mr. Duncan's translation and the original letter. A. Specifically I cannot; *substantially* I can. Such parts were left out as were calculated to inculpate me for the reasons already stated. *Mr. Wickham.* I observe one of the cyphers is in hieroglyphics, designed in 1799 or 1801. A. That is erroneous. When the hieroglyphics were formed they were taken from a small slip of paper and annexed to that in your hand to prevent its being lost. Q. Can you tell when they were made. A. I cannot precisely. I have before stated the time as nearly as I can. Q. Can you tell upon what occasion they were made? A. For the purpose of communicating with col. B. Q. Do you recollect your having sent a letter to col. B. from St. Louis, in May or June 1806? I have such an impression, but have not the most distant recollection of its contents. [Mr. Wirt submitted it to the court whether it could be proper for the opposite counsel to interrogate gen. Wilkinson as to a letter which was in their own possession. If they meant to rely upon the letter as evidence they ought to produce it. He considered it unfair to select such parts as might tend to inculpate gen. Wilkinson, and keep back those which would lead to an explanation of his conduct. *Mr. Wickham* said it was their own paper, and they were not bound to produce it 'till they thought proper. Their object was to cross examine the witness and see whether he was consistent with himself. This they had a right to do.

The *Chief Justice* said the question would not be permitted to have any bearing on the cause unless the letter was produced. Any thing drawn out of the letter would not be testimony, unless the opposite party who had it in their possession would exhibit it to the court. But it was obvious that they had another object, which was to ascertain the consistency of the witness. Mr. *Wirt.* If the object be to shake the credibility of the witness, is it not fair to him and to the conduct of the cause to exhibit the whole letter. Mr. *Baker.* A very ingenious mode has been adopted by the gentlemen. We put the questions, and they undertake to furnish the answers without leaving it to the witness to do it himself. We do intend to shake the credibility of gen. Wilkinson, and to make him produce the shake himself. Mr. *M'Rae.* I understand the court to say that the examination as to the contents of the letter, shall have no effect, unless the letter itself be produced, *Chief Justice.* Gen. Wilkinson says that he has no recollection of the contents of the letter. The subject matter of the letter cannot be established by the examination. But the witness may be cross examined for the purposes avowed by the opposite counsel. Mr. *Wickham.* Do you recollect that you did write to colonel Burr in 1806? A. I have before stated that I have such an impression; but I have no recollection of the contents of any communication made to him, although I remember the motive which induced me to write. Mr. *Wickham.* You have no recollection of any particular expression? A. No. Except in a letter of October or November, 1805—2. Q. Have you no recollection of any expression or sentiment expressed in your letter of 1806. A. I have no recollection. Q. Was it your expression that we should have a war with Spain? A. It was my opinion; and there was a very general impression that we should have a war with that power? Q. Do you not recollect writing any thing respecting the measures of the government, in relation to a war with Spain. Have you no recollection of any opinion expressed in a letter to col. Burr? A. I do not recollect having expressed any opinion respecting the measures of the government. The only expression I have any idea of, is one used in a letter of October or November, 1805, in which, I believe I say, "I fear Miranda has taken the bread out of your mouth." Mr. *Wickham.* There were letters published from you while in the neighborhood of the Spaniards. Have you copies of those letters here? A. I have the whole correspondence. Mr. *Wickham.* We only want the letters of September and October, which state that war with Spain is inevitable. Gen. *Wilkinson.* I think that I may have said so, and believe that I have papers here which throw some light on the subject. Here are my instructions to the officer who commanded the troops when they left St. Louis.—[General Wilkinson handed to MR. Wickham copies of his instructions to col. Cushing.] *Mr. M'Rae.* What is the date of those instructions? A. The 6th and 8th of May, 1806. Gen. *Wilkinson* said that he would with pleasure, submit the whole correspondence, if he could do it consistently with his own ideas of propriety. But there were contained in it such secret military operations, as it might be improper to expose. Mr. *Wickham.* I think you state that at that time, the expectation of a war with Spain was very general? A. It was so: and if my instructions to col. Cushing can be read, they will shew my own impressions. [Here M'Rae read the instructions of gen. Wilkinson to col. Cushing, of the 6th of May, 1806; for which, see notes K* and L.] Mr. *Wickham.* I think you have said that there was an universal expectation of a war with Spain, about the time when the troops of that nation crossed the Sabine. A. Yes, I have said so. I had made arrangements for a general attack. Mr. W. To what cause are we to ascribe the accommodation which took place between the two armies? A. To a wish to spare the effusion of blood; and, perhaps, because on one side there were reluctance to fight. Q. On which side?—A. On the side of Spain. *Mr. Wickham.* Can you tell the particular motives which induced them to re-cross the Sabine, and change their position? A. I think I can explain them. Immediately on my arrival at Natchitoches on the 24th of September, I addressed a letter to gov. Cordero, whom I considered the commander in chief of the Spanish forces on that frontier. I communicated to him my orders from the President, and urged him on the ground of right and humanity, to withdraw his troops from the east of the Sabine and recross that river.—Whether this or the vigorous preparation for the offensive operations which I immediately commenced on my arrival at Natchitoches, produced the effect or not, I cannot tell. But the fact is, that the Spaniards about the 27th of the month, raised their camp at Bayou Pierre, marching by their right intersected the high way from Natchitoches to Nacogdotches, about twenty miles in front, pursued that route, and recrossed the Sabine about the 29th or 30th.

Mr. Wickham. Was this after you had received the cyphered letter?—A. No. It was some time before. *Mr. wickham.* Had you any correspondence with the Spanish commandant, on the subject of col. B's expedition against Mexico? A. None. The earliest communications which I made on that subject were after my return to Natchez. *Mr. w.* Has the jurisdiction of the U. S. ever been exercised as far as the Sabine? A. I cannot tell. *Mr. w.* Was it in consequence of instructions from the government that you concluded the convention with the Spanish commandant? A. No. *Mr. w.* I do not recollect whether that convention has ever been published. A. Never. *Mr. w.* Have you any copy of that convention? A. Yes. But until it shall be the pleasure of the government to publish it, I do not think myself at liberty to divulge its contents. I do not think it reconcilable to the duty of a military commander to anticipate his government in the publication of official communications.

Mr. wickham. Were there any secret articles in that convention? A. None. There was but one article. *Mr. w.* Was there any sum of money agreed to be paid on either side? A. Not one cent. *Mr. w.* You note two letters to the President, one of the 21st of October, and the other of the 12th of November, 1806. Have you a copy of that of the 12th of November; and will you give me leave to ask whether that letter was before the grand jury?. A. It was submitted to the grand jury. [*Mr. Wickham* said that they called for a copy of that letter. If the counsel on the other side thought proper to oppose it, they might do it at once. *Mr. Hay.* We shall certainly oppose the production of the letter. The President has been consulted on the subject; and he has excepted such parts as he thought it would be improper to produce. The *Chief Justice* remarked, that after the President had been consulted, he could not think of requiring from gen. Wilkinson the exhibition of those parts of the letter which the President was unwilling to disclose. Mr. *Wickham.* The whole letter having been before the grand jury, and acted upon by them; we certainly have a right to call for it also.] Mr. *wickham.* Were the Spaniards in considerable force on the East side of the Sabine? A. They were reputed to be so. Mr. W. What was the strength of the army of the United States? A. About 500 effective men. Mr W. What orders did you receive from the government in the months of December and February last? A. I cannot say what particular orders I received during those months. Owing to the frequent changes of my position, I was for more than six months without orders. But it is impossible for me to answer the interrogatory to the extent in which it is put, without subjecting myself to severe military penalties. Nothing can be more improper or dishonorable than to divulge military orders of a secret or confidential nature.

[*Mr. wickham.* There can be no doubt but under the sanction of the oath which general Wilkinson has taken, he may be compelled to give testimony as to the points on which he has been interrogated. In England, nothing is more common than for the most secret transactions to be disclosed in a court of justice. Considerations of delicacy in the witness have never been permitted to have any weight. Mr. *Hay.* There is a material difference. Those were cases between individuals; this is a communication from the executive government. We are not at liberty to dive into the secrets of the executive department to know what orders they give to their agents, and to proclaim those orders to the world;—orders which were given for the public good. There can be no doubt but the public good does require that various orders of the government should forever remain a secret. Mr. *Wickham.* The gentleman did not understand my question. I asked general Wilkinson what orders he had received from the government in relation to Col. Burr.] Mr. *Wickham.* Did you receive any orders to attack Col. Burr and his party? A. That question may require some qualification. Mr. *Wickham.* Did you send any officer in disguise to take Col. Burr? A. I sent three. Mr. *Wickham.* Their names? [Mr. Hay said that he did not think General Wilkinson was bound to answer such questions; that he was not bound to furnish evidence against himself, or to subject himself to prosecution. Although he believed that the exigencies of the times would justify the measures it rested with Gen. W. whether he would answer the question or not. Gen. *Wilkinson.* If the question goes to criminate myself, I presume that I am not bound to answer it. *Chief Justice.* Would gen. Wilkinson be subjected to an action for sending to apprehend Col. Burr, unless he had been seized? Mr. *Hay* It may go to criminate him as a military man. He may have acted without orders. Mr. *Wickham.* I do not presume that he acted without orders—but under the orders of the government. The *Chief Justice* said, that he could not perceive the application of the evidence; but as evidence was introduced to shew the flight of Col. Burr from Washington, this, he presumed, was intended to account for it.] Mr. *Wickham.* Will you state the names of the officers sent to apprehend Col. Burr. A. Captain Hook, Lieut. Peter, Lieut. Mulford, Doctor Davidson, of the army, and Doctor Carmichael of the Mississippi territory. Mr. *Wickham.* Did you direct them to go without uniform? A. I believe I did. Mr. *Wickham.* Did you direct them to conceal the object of their mission? A. I feel great delicacy in revealing my orders.

(*TO BE CONTINUED.*)

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* *The document marked K* referred to above, containing the instructions of Gen. wilkinson to Col. Cushing, of the 6th of May, 1806, has been misplaced, and could not be procured in time for our paper of to-day.*

(I)

Deposition of Captain J. B. Walback.

I had the honor to become acquainted with General James Wilkinson some time in August, 1799; became attached to his military family in December, 1800—was appointed an aid-de-camp in the spring following, and continued in that capacity until the last of Nov. 1804.

During the above period, I have witnessed that Gen. Wilkinson did employ cyphers of different kinds in his correspondence, among them was an English pocket dictionary. Several of these cyphers I have made myself, designed copies of some of them are still in my possession, and others I have recognized since my arrival at the city of Richmond. Particularly one to the late general James Jackson, another to the late major general Alexander Hamilton, a third to a Mr. Hulings, then at New Orleans, a fourth to colonel Cushing, a fifth to Mr. Silas Dinsmore and one to myself. Several of these were projected in 1802 and 1803, at the time the port of New-Orleans was shut, and for the purpose of procuring and conveying intelligence to the government.

Q. Did you ever observe in Gen. Wilkinson any act, or disposition, which marked inattention to his duty, as to the zealous and faithful discharge of the trust reposed in him as an officer of the U. States.

A. From my own observation and experience, (being now nearly twenty-six years in military life) I can declare that I have never known any officer more zealously devoted to the service in which he was engaged, and I can safely declare, that I have never seen an officer of gen. Wilkinson's rank, voluntarily and cheerfully expose himself to such privations, hardships and sufferings in the course of his duty, as I have seen him meet with alacrity.

Q. Do you know the hand writing of captain C. Smith. A. I do.

Q. Are these Hieroglyphics of his writing. A. They are.

Q. Are they the same which were employed by colonel Burr in his correspondence with Gen. Wilkinson.

A. They are the same which are employed in colonel Burr's letters, shewn me since my arrival at the city of Richmond, and said to be delivered by Messrs. Swartwout and Bollman to Gen. Wilkinson.

Q. Do you recollect when captain C. Smith left gen. Wilkinson's family? A. Some time in July, 1801.

Q. Do you think Gen. Wilkinson afterwards saw or was near hi[illegible]

A. I am certain not, because gen. Wilkinson did not return from the Mississippi until May, 1804, and captain Smith resided in the state of Maryland, and died in the winter 1803 or 1804.

Q. Have you seen gen. Wilkinson employ the pocket dictionary, now presented to you in writing cypher?

A. I have.

Q. Will you say in what year?

A. I am not positive as to the year, but it was during the period, I was attached to his military family.

Q. Did you hear a sentiment from Gen. Wilkinson, calculated to disaffect the troops, or to abate their zeal for its promotion?

A. No, on the contrary, I have witnessed that Gen. Wilkinson always used his utmost endeavors to promote harmony, comfort and good order among the troops, and by his precepts as well as example, to insure subordination and patriotism.

(Signed) J. B. WALBACK,
Capt. Artillery.

I am content that the above shall be read as evidence in all cases, between the United States and Colonel Burr—that any thing that may be added by the affiant, by way of answer to interrogatories may also be read.

(Signed)
G. HAY, Att'y U. S.
for the Richmond district.

City of *Richmond, sct.*
Sworn to and subscribed before me an alderman of the city aforesaid, this 5th day of Sept. 1807.
(Signed)
Henry S. Shore.

(L.)

Instructions from Gen. Wilkinson to col. Cushing.

St. Louis, May 8, 1806,
1 o'clock, A. M.

Sir,

Advice yesterday received from Major Porter, makes it my duty to direct the acceleration of your movements by every practicable means, and I trust that in the present state of the waters, you may reach Fort Adams on the 20th inst.

On arriving at that port, the information you may receive must determine the course of your conduct: should the Spaniards have resumed the positions East of the Sabine, or assumed a menacing aspect at Nacogdoches, you must add to your command every man at Fort Adams excepting a mere *locum tenens*, leaving orders at that place for Lt. Col. Kingsbury to fall down to the mouth of red river and there wait the return of a sufficient number of your barges for his transport to the high grounds, from whence it may become expedient for you, to march the whole of your command excepting the boats crews.

I hope major Porter may have taken the precaution to transmit the executive a copy of the information he has forwarded to me, and that you may receive from that source, at an early period, decisive instructions for your government; in the mean time, *tho' war be our trade*, it is not only opposite to the genius and disposition of our country, but also to its substantial interests. The sword must not, therefore, be drawn but in the last extremity, to punish outrage, to resist invasion, or repel an attack.

Should indications justify it, (and you must take measures to ascertain if possible the designs of your neighbors,) you are to call to your aid, every man who can be safely spared from the garrison under your orders, and will employ every pains and exertion, to put them in the highest state of fitness for defensive operations.

You will find in the hands of Major Porter an order from the Sec. at War, which might justify you in pushing your neighbors beyond the Sabine River, should they have re-crossed it to the eastward. But as it appears from the public prints that a pacific negociation has, on our part, ensued those orders, you must not strain their construction to favor the effusion of blood, and involve our country in the certain calamities and uncertain events of war.

Learn with all possible precision, the force, composition and station of the troops opposed to you: be yourself prepared for combat, and if a conflict must ensue, having previously animated your men by a strong exhortation, and sworn your officers, in their presence, to fall or conquer, make your onset with the bayonet, and your own glory, the honor of our arms and the interests of the nation, will be ensured and maintained,

Wishing you life and laurels,
health and fame,
I am,
your faithful friend,
and fellow soldier,
JAMES WILKINSON.

Col. T. H. Cushing, 1st Reg.
U. S. Infantry.