The Holmes County Farmer.

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THE COURT-MARTIAL

—OF—

HON. C. L. VALLANDIGHAM.

Organization of the Court—Charge and Specification—Testimony on Both Sides and Protest of Mr. Vallandigham.—A Full Report of the Proceedings of the Trial!

FIRST DAY.

WEDNESDAY, May 6, 1863.

The Commission convened at ten o'clock, A. M.

The Judge Advocate read the General Order from the Headquarters of the Department of the Ohio; appointing the following named officers a Commission to try all parties brought before it, and Mr. Vallandigham was asked whether he had any objections to offer to any member of the Court.

The following officers composed the Court:

Brig. Gen. R. B. Potter, President.
Capt. J. M. Cutts, Judge Advocate.
Col. J. F. DeCourcy, 16th O. V. I.
Lieut. Col. E. R. Goodrich, Com. Sub.
Maj. Van Buren, A. D. C.
Maj. Brown, 10th Kentucky Cavalry.
Maj. Fitch, 115th O. V. I.
Capt. Lyding, A. D. C.

Mr. Vallandigham said he was not acquainted with any of the members of the Court, and had no objections to offer to them individually, but he protested that the Commission had no authority to try him, he being neither in the land or naval force of the United States, or in the militia in the actual service of the United States, and was not therefore triable by such a Court, but was amenable only to the Judicial Courts of the land.

The members of the Court were then sworn to try his case impartially.

The Judge Advocate then read the following charge and specification:

CHARGE.

Publicly expressing, in violation of General Order No. 38, from Headquarters Department of the Ohio, his sympathies for those in arms against the Government of the United States, declaring disloyal sentiments and opinions, with the object and purpose of weakening the power of the Government in its efforts to suppress an unlawful rebellion.

SPECIFICATION.

In this, that the said Clement L. Vallandigham, a citizen of the State of Ohio, on or about the 1st day of May, 1863, at Mount Vernon, Knox county, Ohio, did publicly address a large meeting of citizens, and did utter sentiments, in words or in effect, as follows, declaring the present war "a wicked, cruel and unnecessary war;" "a war not being waged for the preservation of the Union;" "a war for the purpose of crushing out liberty and erecting a despotism;" "a war for the freedom of the blacks and the enslavement of the whites;" stating "that if the Administration had so wished, the war could have been honorably terminated months ago;" that "peace might have been honorably obtained by listening to the proposed intermediation of France;" that "propositions by which the Southern States could be won back and the South be guaranteed their rights under the Constitution, had been rejected the day before the battle at Fredericksburg, by Lincoln and his minions;" meaning thereby the President of the United States and those under him in authority. Charging "that the Government of the United States were about to appoint Military Marshals in every District to restrain the people of their liberties, to deprive them of their rights and privileges." Characterizing General Order No. 38, from Headquarters Department of the Ohio, as "a base usurpation of arbitrary authority," inviting his hearers to resist the same by saying, "the sooner the people inform the minions of usurped power that they will not submit to such restrictions upon their liberties, the better;" declaring "that he was at all times, and upon all occasions resolved to do what he could to defeat the attempts now being made to build up a monarchy upon the ruins of our free Government;" asserting "that he firmly believed, as he said six months ago, that the men in power are attempting to establish a despotism in this country, more cruel and more oppressive than ever existed before."

All of which opinions and sentiments he well knew did aid, comfort and encourage those in arms against the Government, and could but induce in his hearers a distrust of their own Government and sympathy for those in arms against it, and a disposition to resist the laws of the land.

J. M. CUTTS,
Captain 11th Infantry, Judge Advocate, Department of the Ohio.

Mr. Vallandigham was asked by the Judge Advocate what his plea was.

Mr. Vallandigham refused to plead, and asked time to consult his counsel and for process to compel the attendance of Fernando Wood, of New York City, who should be required to bring with him the letter which he received from Richmond in relation to terms offered for the return of Southern Senators to their seats in Congress, with the letter of the President declining to entertain the proposition.

Mr. Vallandigham continuing to refuse to plead to the charge, the President directed that the plea of "not guilty" be entered on the record.

The Court then gave Mr. Vallandigham time to consult his counsel, and for that purpose ordered a recess to half past one o'clock.

The Court was then cleared for deliberation, as to whether the delay asked for by Mr. Vallandigham should be granted, and remained closed until near noon.

The Court again met pursuant to adjournment, and the doors were opened.

The President asked Mr. Vallandigham whether he desired to appear with counsel.

Mr. Vallandigham said he did not.—His counsel, George E. Pugh, George Pendleton and Alexander Ferguson remained in the adjoining room.

The Judge Advocate announced that the case would be proceeded with, and called the first witness for the prosecution.

Captain H. R. Hill, of the 115th Ohio Volunteer Infantry, was sworn.

Question by Judge Advocate. Were you present at a meeting of citizens at Mount Vernon, on May 1, 1863?

Ans. I was.

Q. Did you hear accused address that meeting?

A. I did.

Q. What position did you occupy at the meeting, and were you near enough to hear all he said?

A. I was leaning against the end of the platform on which he was speaking. Was about six feet from him. I remained in this position during the whole time he was speaking.

By Judge Advocate. State what remarks he made in relation to the war; what he said about the President of the United States and the orders of military commanders.

Witness. In order that I may bring in events as they were referred to by the speaker, I ask permission of the Court to refresh my memory from the notes which I took at the time.

President. You can read from your notes.

Witness. The speaker commenced by referring to the canopy under which he was speaking, the stand having been decorated with an American flag—the flag under the Constitution—

Judge Advocate. You need not give his introductory remarks. Confine yourself to what he said about the war.

Witness. After finishing his exordium, he spoke of the designs of those in power being to erect a despotism. That it was not their intention to effect a restoration of the Union That previous to the battle of Fredericksburg an attempt was made to stay this wicked, cruel and unnecessary war. That the war could have been ended in February last. That a day or two before the battle of Fredericksburg, a proposition had been made for the re-admission of Southern Senators into the United States Congress, and that the refusal was still in existence over the President's own signature, which would be made public as soon as the ban of secrecy imposed by the President was removed. That the union could have been saved if the plan proposed by the speaker had been adopted. That the Union could have been saved upon the basis of reconstruction; but that it would have been in the exile or death of those who advocated a continuation of the war. He then referred to Forney, who was a well known correspondent of the Philadelphia *Press*, and said he had no right to speak for those who were not connected with the Administration. That some of our public men, rather than bring back some of the seceded States, would submit to a permanent separation of the Union. He stated that France, a nation that had always shown herself to be a friend of our Government, had proposed to act as intermediator; but that her proposition, which, if accepted, might have brought about an honorable peace was insolently rejected.

Mr. Vallandigham here corrected the witness. The word he used was "instantly," not "insolently."

Witness. I understood the word he used to have been "insolently." That the people had been deceived,—that 20,000 lives had been lost at the battle of Fredericksburg that might have been saved. In speaking of the objects of the war he said it was a war for the liberation of the blacks and the enslavement of the whites. We had been told it would be terminated in three months—then in nine months; and again in a year. That the war was still in progress, and that there was no prospect of its being ended. That Richmond was theirs; that Charleston and Vicksburg were theirs; that the Mississippi was not opened, and would not be so long as there was cotton on its banks to be stolen, or so long as there were any officers to enrich. That a Southern paper had denounced him and Cox, and the peace Democrats, as having done more to prevent the establishment of the Southern Confederacy than 10,000 soldiers could do. That they proposed to operate through the masses of the people in both sections who were in favor of the Union. That it was the purpose or design of the Administration to suppress or prevent such meetings as the one he was addressing. That military marshals were about to be appointed in every district who would act for the purpose of restricting the liberties of the people, but that he was a freeman. That he did not ask David Tod or Abraham Lincoln, or Ambrose E. Burnside for his right to speak as he had done, and was doing. That his authority for so doing was higher than General Order No. 38—it was General Order No. 1—the Constitution. That General Order No. 38 was a base usurpation of military power—that he had the most supreme contempt for such power. He despised it and spit upon it. He trampled it under his feet. That only a few days before a man had been dragged from his home in Butler county by an outrageous usurpation of power and tried for an offence not known to our laws, by a self-constituted court-martial — tried without a jury, which is guaranteed to every one; that he had been fined and imprisoned. That two men had been brought over from Kentucky and tried, contrary to the express laws for the trial of treason, and were now under the sentence of death. That an order had just been issued in Indiana, denying to persons the right to canvass or discuss military policy, and that if it was submitted to it would be followed up by a similar order in Ohio; that he was resolved never to submit to an order of a military dictator, prohibiting the free discussion of either civil or military authority.

The sooner that the people informed the minions of this usurped power that they would not submit to such restrictions upon their liberties, and that they would not cringe and cower before such authority, the better. Let them not be deluded by the image of liberty when the spirit is gone. He proclaimed the right to criticise the acts of our military servants in power; that there never was a tyrant in any age who oppressed the people further than he thought they would submit to endure; that in the days of Democratic authority, Tom Corwin had, in the face of Congress hoped that our brave volunteers in Mexico "might be welcomed with bloody hands to hospitable graves," but that he had not been interfered with. It was never before thought necessary to appoint a captain of cavalry as Provost Marshal, as was now the case in Indianapolis, or military dictators, as were now exercising authority in Cincinnati and Columbus; that a law had recently been enacted in Ohio, as well as in some other States, regulating the manner in which soldiers should vote; and that the officers are to be judges of elections.

Judge Advocate objected to this part of the testimony as irrevelant.

Mr. Vallandigham desired the court to permit the witness to go on with the testimony.

Witness—The speaker closed by warning the people not to be deceived. That an attempt would shortly be made to enforce the Conscription Law, and to remember that the war was not for the preservation of the Union, but that it was a wicked Abolition war, and that if those in authority were allowed to accomplish their purposes, the people would be deprived of their liberties and a monarchy established; that as for him he was resolved that he would never be a priest, to minister at the alter on which his country was being sacrificed.

Question by Judge Advocate. What other flags or emblems were used in decorating the stage?

A. There were banners made of framework, and covered with canvass, which were decorated with butternuts and bore inscriptions. One banner, which was carried at the head of a delegation which came in from a town in the country, bore the inscription, "The Copperheads are coming."

Mr. Vallandigham. The South never coined copper cents.

Judge Advocate. But butternuts are a Southern emblem.

Mr. Vallandigham shook his head, and said they were not.

Question by Judge Advocate. Did you see any persons having emblems on their persons?

A. Yes, I saw hundreds of persons wearing Butternut and Copperhead badges.

Mr. Vallandigham. The copper badges were simply the head cut out of the common cent coins, with pins attached.

Mr. Vallandigham. Did you notice what inscription these Copperhead badges bore?

A. No, I did not look at them.

Mr. Vallandigham. The inscription on them was "Liberty."

Question by Judge Advocate. Did you hear any cheers in the crowd for Jeff Davis?

Mr. Vallandigham. That is not in the specification.

Witness. I did not hear cheers for Jeff Davis, but I heard a shout in the crowd that "Jeff Davis was a gentleman, and that was more than the President was."

CROSS EXAMINATION BY MR. VALLANDIGHAM.

Q. Did I not refer in my speech to the Crittenden Compromise propositions and condemn their rejection?

As the witness was about answering, the Judge Advocate objected to the question on the ground that it was bringing in matter foreign to the charge and specification. The Court allowed the question to be answered.

A. When endeavoring to show that the party in power had not the restoration of the Union in view in conducting the war, and that that was not their object, he stated a number of means by which that could have been accomplished, and from the fact that none had been adopted, he considered it proof that the restoration of the Union was not the object for which the war was being waged.

Q. Did I not quote Judge Douglas' declaration that the rejection—

Mr. Vallandigham. I desire to prove that in my speech I stated that Mr. Douglas had said that the responsibility for the rejection of the Crittenden propositions was with the Republican party.

The Judge Advocate stated that his objection was that the question was bringing in political opinions and discussion with which the Court had nothing to do.

The room was cleared for deliberation, and the doors closed.

After an interval of fifteen minute the doors were again opened, and then the Judge Advocate announced that the question would not be admitted.

Q. When speaking in connection with Forney's *Press*, did I not say that if other Democrats in Washington and myself had not refused all idea and suggestions of some prominent men of the party in power, to make peace on terms of disunion, that I believed the war would have been ended in February?

A. When speaking of the propositions before referred to, and that this war was not being carried on for the restoration of the Union, he stated that if the Democrats in Washington had united in influence for the permanent separation of the Union it would have been accomplished in February.

Q. Did I not refer expressly to myself in that connection, and say that I had refused, and always would refuse, to agree to a separation of the States; in other words, to peace on terms of disunion?

Ans. Well, that idea is not exactly as it was expressed. He stated something to that effect. That he wished to hove a voice in the manner in which the Union was to be reconstructed, and that our southern brethren should also have a voice in the matter.

Ques. Referring to the Richmond *Enquirer* article, did I not say that it, Jeff. Davis' organ, had called Dictator Lincoln to lock up Mr. Cox Senator Richardson and myself in one of his military prisons, because of our doing so much against Southern recognition and independence?

A. That is substancially what he said.

Q. Referring to General Order No. 38, did I not say that in so far as it undertook to subject citizens not in the land or naval forces of the United States, or militia of the United States in actual service, to trial by Court-martial of Military Commission, I believe it to be unconstitutional and a usurpation of arbitrary power?

A. Yes, except in the words "in so far."

Q. Referring to the citizens of Kentucky, tried by Military Court in Cincinnati, did I not say that if what they were charged with was actual treason, punishable by death, and that if guilty the penalty by statute, which was hanging, that they ought to be hung, after being tried by a judicial court and a jury, instead of which they had been tried by a military court, and, as I understood, sentenced to fine and imprisonment, one of them $300 fine.

A. I don't think he put those "if's" in. I think he said they were improperly tried, and by usurpation of power.

Mr. Vallandigham—Strike out the "ifs" then.

Witness—That was substancially what he said.

Q. Did I not also say, in that connection, that the rebel officer who was tried as a spy by the Military Court at Cincinnati, was legally and properly tried, according to the rules, and articles; tried and convicted—that that was a clear case where the Court had jurisdiction?

A. It is my recollection that he denounced the Court as an unlawful tribunal, and did not make the distinction.

Q. by Judge Advocate. Did he refer to the case of Campbell, the rebel spy, and make any distinction?

Ans. No. He denounced the Court first, and then gave the instances, which I have already related in my direct testimony.

Q. by Vallandigham. Do you not remember my speaking of the Campbell case, and saying that he was properly tried?

Ans. He may, but I do not recollect it. He probably did refer to the Campbell, case.

Q. May I not have made the distinction and you have not heard it?

The Judge Advocate said he would admit that the accused did draw the distinction between the cases, and that he admitted the rightof the Court to try the spy. In other words, that he condemned the trial of the Butler country man and approved the case of the spy who was tried and convicted.

Q. Did I not distinctly, in the conclusion of the speech, enjoin upon the people to stand by the Union at all events, and that if war failed, not to give up the Union, but to try by peaceable means, by compromise, to restore it, as our fathers made it, and that though others might consent, or be forced to consent I would not myself be one of those who would take any part in agreeing to a dissolution of the Union?

A. Yes. He said that he and the peace men were the only ones who wished the restoration of the Union?

Q. Did not one of the banners you referred to as decorated with butternuts, bear the inscription, "The Constitution as it is, and the Union as it was?"

A. The banners were numerous. One of them, I believe, did bear that inscription,

Q. Do you mean to be understood to say that I heard the reference to Jeff. Davis in the crowd, or gave any assent to it whatever?

A, I cannot say that he did. Did not see or hear him give any assent to it.—There were many other remarks of that character uttered.

Q. What was the size of the crowd assembled there?

A. I do not know the proper estimate but the crowd was very large.

The Court then adjourned to Tuesday morning at 10 o'clock.

SECOND DAY.

The Court met at 10 o'clock, A. M., Present as before. Yesterday's proceedings and testimony were read and approved, and were signed by the President.

Captain Hill was again called to the stand, and his cross examination resumed by Mr. Vallandigham.

Q. In speaking of the character of the war, did I not expressly say as Mr. Lincoln in his Proclamation of July 1, '62. said: "This unnecessary and injurious civil war."

Judge Advocate, to Mr. Vailandigham, was that used in your speech as a quotation from the President's Proclamation?

Mr. Vallandigham. Yes, it was.

Witness. I do not recollect that he did. The language he made use of I understood to be his own.

Mr. Vallandigham. Of course I co'd not put the quotation marks in my speech.

Q. Again: in speaking of the character of the war, did I not expressly give as proof the President's Proclamation of September 22, 1862, and January 1, '63, declaring the emancipation of the slaves in the Southern seceded States, as proof that the war was being waged for that purpose?

The witness was about to answer, when the Judge Advocate checked him. He said it was bringing out matters which were foreign to the cnarge and specification, and that the Court was not called upon to pass upon the merits of the President's Proclamation. He then desired that the Court should be closed for deliberation.

Mr. Vallandigham. I desire to show this fact, in explanation of the purpose and object of my declaration as to the presen character of the war; and as my authority for the statement, for I assume that the president is not disloyal.

The Judge Advocate insisted that the question required the Court to pass judgment upon the merit of the President's Proclamation, and not whether he [Mr. V.,] was expressing his own sentiments or those of the President.

The Judge Advocate said the question could not be admitted.

Q. Did you continue at the same place during the delivery of the whole speech?

A. I did.

Q. Were your notes taken at the time or reduced to writing afterward?

A. They were taken at the time, and as they fell from the speaker's lips.

Q. Were you not in citizen's clothes? And how came you to be at Mt. Vernon that day? Did you go to Mount Vernon for the purpose of taking notes and reporting the speech?

Judge Advocate. I object to this question on the ground of its immateriality.

Mr. Vallandigham insisted on the question on the ground that it explained the temper and spirit of the witness, and his prejudices, and as showing that the notes were taken with reference to the arrest and prosecution before this Commission, he being a Captain in the service, and his regiment in Cincinnati.

The question was objected to by the Judge Advocate, and the Court was cleared for deliberation.

On opening the doors again, the Judge Advocate announced that the question would be allowed.

A. I was in citizen's clothes, and I went up for the purpose of listening to any speech that might be delivered by him. I had no orders to take notes or report.

Q. Did you go provided with pencil and paper?

The Judge Advocate objected to the question. Of course the witness had pencil and paper.

Q. Did you take notes of any other speech?

I commenced taking notes of Mr. Cox's speech; but considered it harmless, and stopped. I took no notes of any other speech.

Q. Were you not sent expressly to listen to my speech?

I was not, any more than any other speech.

Q. By whom were you sent or requested to go?

A. By Capt. Andrew C. Kemper, Assistant Adjutant General of the Military Commandant of the City.

Q. From whom did you obtain leave of absence?

Judge Advocate. He did not need any leave of absence; the order was enough.

Mr. Vallandigham. Then strike out the words "or requested" from the answer; for it leaves it ambiguous.

Q. Did you make report to Capt. Kemper on your return?

The Judge Advocate objected to the question, but the Court allowed it.

A. On my return I did not report to Kemper.

Q. To whom did you report?

A. To Col. Eastman himself, and he sent me to Headquarters Department of the Ohio.

This closed the testimony of Captain Hill on both the direct and cross-examination.

The Judge Advocate called

Captain John A. Means, 115th O. V. I., who was sworn. He was asked by the Judge Advocate if he was at the Mount Vernon meeting, and whether he heard Mr. Vallandigham speak, and if so, what he said of the war, &c.,?

Witness. I was at the meeting, and heard Mr. Vallandigham address the people. I was in two or three positions most of the time, and about five or ten feet from the stand. I heard the whole speech.

By the Judge Advocate. State what remarks you heard him make, and give as near as you can his language.

Witness. He stated that the war was not carried on for the restoration of the Union; and that it might have been stopped some time ago, and the Union restored, if the plans which had been submitted had been accepted.

Mr. Vallandigham objected to this testimony on the ground that he had applied for a subpœna to compel the attendance of Fernando Wood, who would produce the writted evidence of what he (Mr. V.) had asserted about the return of Southern Senators to their seats in Congress.

Judge Advocate. I will strike from specification that part which refers to the "propositions by which the Southern States could be won back," &c.

To the witnes: You will omit that part of your testimony.

Witness continued: "If the plans he had proposed himself had been adopted, peace would have been restored, the Union saved by a reconstruction, the North won back and the South guaranteed her rights. That Richmond, Charleston and Vicksburg had not been taken, and the Mississippi was not opened, and could not be as long as there was cotton on the banks to be stolen or officers to be enriched. He said that after the rebuke which the Administration received at the last fall elections no more volunteers could be had, and the Administration had to sort to the French conscription law. But he would not counsel resistence to military or civil law. That was not needed. The people were not deserving to be free men who would submit to to such encroachments on their liberties.

Mr. Vallandigham. What was I referring to, when I made the remark you say I did?

Witness. He was speaking of the Conscription Act. He said he believed the Administration was attempting to erect a despotism, and in less than one month Lincoln had plunged the country in this cruel, bloody and unnecessary war. He stated that General Order No. 38 was a usurpation of power that he despised—he spit upon it and trampled it under his feet. That he for one would not regard it. He styled the officers of the Administration and officers of the army as Lincoln minions. He said he did not ask Lincoln or Burnside whether he might speak; that he was a free man and spoke as he pleased. He stated the military orders and proclamations were intended to intimidate the people and prevented them from meeting as they had done that day. He claimed the right to discuss and criticise the actions of the civil and military authorities.

Q. Did he advise the people to take any steps to obtain their rights?

A. At the close of his speech he advised the people to come up together and at the ballot-box to hurl the tyrant from his throne. In one part of his speech he styled the President as King Lincoln.

Cross examination by Mr. Vallandigham—Q. Did you take any notes at all during the delivery of the speech, or are you testifying solely from memory?

A. I took no minutes during the delivery of the speech. After Pendleton commenced speaking, I went and wrote out what I heard. It was perhaps an hour and a half after I heard the speech.

Q. About what was the length of the speech?

A. I think about an hour and a half.

Q. You made no short hand report of it, I suppose. Did you ever report in short hand?

Judge Advocate. The witness has already said he made no report of the speech.

Mr. Vallandigham wanted to know if he was accustomed to reporting speeches.

The Judge Advocate objected to the question.

Q. You speak of my saying the *North* might be won back—was it not the *South* might be won back? Mr. Vallandigham said he noticed that the witness used the word "North" in place of the "South." It was the South he referred to.

A. No. I noticed this particularty. It struck me very forcibly.

Q. You say that I said that I would not counsel resistance to military or civil law. Did not I expressly counsel the people to obey the Constitution and the laws, and pay proper respect to men in authority, but to maintain their political rights through the ballot-box, and to redress personal wrongs through the judicial tribunals of the country, and in that way to rebuke and put down Administrations and all usurpations of power?

A. Not in that connection. He said, at the last of his speech, to come up to the ballot-box and hurl the tyrant from power.

Q. Do you recollect the whole connection in which that sentence was used?

A. I did not understand him to advise submission at all times.

Q. Do you recollect the sum and substance of what I said?

A. I remember part of it, but I cannot remember the language or the substance so as to answer the question.

Q. Did I not say that my authority to speak to the people in public assemblages, on all public questions, was not derived from General Order No. 38. but from General Order No. 1—The Constitution of the United States, George Washington commanding.

A. I understood him to say, that his authority to speak to the people was higher than General Order No. 38, by that military despot, Burnside. It was Order No. 1, signed Washington. I did not hear him say "Constitution."

Q. Were not the name Tod, Lincoln Burnside used in the same connection, and that I did not ask their consent to speak?

A. At another time he did use these words.

Q. Were not the remarks you say I made about despising, spitting and trampling under foot, expressly applied in reference to arbitrary power generally, and did I not in that connection refer to General Order No. 9 of Indiana, signed by General Hascall, denying the right to criticise the war policy of the Administration?

A. The remarks in regard to despising and spitting upon, were in direct reference to Order No. 38. Some time afterward in speaking of the tyranny of the Administration, he did refer to Order No. 9, and of the right to criticise the acts of the Administration, and said if submitted to it would be followed by civil war in Ohio.

Q. Did I approve or condemn the order?

Judge Advocate. The question, I think has already been answered.

Q. Will you undertake to give any connected or methodical statement of my speech of over one hour and a half long?

A. I simply remember parts of it. I do not pretend to give the speech just as he spoke it.

Q. Were you not present in citizen's clothes, and how came you to be at Mount Vernon that day, by whose order, and were you sent for the purpose of listening to, and reporting the speech?

A. I was there in citizen's clothes by order of Colonel Eastman. I was sent to listen to the speech and to give my careful attention and get his language as near as I could.

Q. Did you make such a report?

A. I did, to Col. Eastman.

Q. Did you make report of any other speeches on that occasion?

A. I did. I got the substance of Cox and Reiney's speeches.

Q. Were you directed to go to Mount Vernon and wake a report of my speech, with reference to the prosecution under General Order No. 38?

A. I was not.

Q. Were any reasons given you why you should go?

The Judge Advocate objected to the question, as the answer had been sufficiently given before.

Q. Was any object stated to you, and if so what, for your going there in citizen's clothes, listening to and reporting the speech?

A. There was not any.

The cross examination here closed, and the Judge Advocate stated that he did not propose to introduce any further testimony on the part of the prosecution.

Mr. Vallandigham asked for a few minutes to consult with his counsel, which was granted, and the Court took a recess of fifteen minutes.

THE DEFENSE.

On the re-assembling of the Court, Mr. Vallandigham colled Hon. S. S. Cox, who was sworn. He was examined by Mr. Vallandigham.

Q. Were you present at a public political meeting of the citizens of Ohio, at Mount Vernon, on Friday, May 1, 1863, and if so in what capacity?

A. I was present as one of the speakers.

Q. Did you hear the speech of Mr. Vallandigham on that day, made to the assemblage?

A. I did.

Q. State where your position was during its delivery; what your opportunities for hearing were; whether you heard it all, and whether and why your attention was particularly directed to it?

A. Before the speaking began I was on the stand a few feet from Mr. Vallandigham, and was most of the time standing near him, so that I could not fail to hear all that he said. I do not think my attention was distracted, unless for a very few minutes, during the whole speech. I had not heard Mr. Vallandigham speak since the adjournment of Congress, and, as I came in from a different direction, from the west, I did not know that he was to be there. I took an especial interest in listening to his speech throughout.—Having to follow him, I naturally noted the topics which he discussed. I believe that answers the question.

Q. Did you hear any allusions to Gen. Burnside, by name or description, and if so, what were they?

A. The only allusion that he made to the General was, I think, near the beginning of his speech, in which he said, he was not there by the favor of David Tod, or Abraham Lincoln, or Ambrose E. Burnside.

Q. Were any epithets applied to him during the speech?

A. No sir. If there had been, I should have noticed them, because Gen Burnside was an old friend of mine; I should have remembered any odious epithets applied to him.

Q. Did you hear the reference to General Order No. 38, and if so, what was it?

A. The only reference made in that speech to that order was something to this effect: that he did not recognize (I do not no that I can quote his language) Order No. 38 as superior to General Order No. 1 of the Constitution, from George Washington commanding. It was something to that effect. I thought it was a handsome point at that time. I remember that, because Mr. Vallandigham used the same expression in the debate in Congress on the Conscription Bill, or in some debate somewhere else, when I heard him speak.

Q. Were any violent epithets such as spitting upon, trampling under foot, or the like, used at any time in the speech, in reference to that Order No. 38; and if any criticism was made upon it what was that criticism?

A. I cannot recall any denunciatory epithets applied to that order. I did not hear them, and if I had I should remembered them. The criticism upon the order was made as I have stated before.

Q. In what connection did I use the strong language?

A. Mr. Vallandigham discussed the order very briefly, in order to get away on the four o'clock train, and occupied most of his time in discussing other propositions. It was in connection with remarks about closing the war by separation of the Union. He charged that the men in power had the power to make peace by separation. He exhausted some time in reading proofs of this—one was from Montgomery Blair, and other from Forney's *Press*. He also said there were private proofs which time would disclose. He said they pursued this thing until they found that the Democrats were unwilling to make peace, except on the basis of the restoration of the whole Union.

Q. Do you remember to what, if at all, in connection with future usurpations of power he applied his strongest language?

A. I cannot say as to the strongest language, for he always spoke pretty strongly. He denounced in strongest language any usurpations of power, to stop public discussions and the suffrage. He appealed to the people to protect their rights, as the remedy for every grievance. Twice in his speech he counseled and warned against violence or revolution.—By the peaceful means of the ballot-box, all that was wrong of a public nature might be remedied, and that the Courts would remedy all grievances of a private nature. I cannot quote the language, but that is the substance.

During his speech he referred to those in power having rightful authority; and that they should be obeyed, He counseled no resistance, except what could be had at the ballot-box.

Q. Was anything said by me at all looking to forcible resistance of either law or military orders?

A. Not as I understand it.

Q. What was sole remedy that I urged upon the people?

A. The sole remedy was, as I have stated, in the Courts and in the ballot-box. I remember this distinctly, because I had been pursuing the same line of remark at Chicago and Fort Wayne, and other places where I had been speaking, and for the purpose of repressing any tendency toward violence among our Democratic people.

Q. Was any thing said by me on that occasion in denunciation of the Conscription Bill, or looking in any way to resistance to it?

Mr. Vallandigham—Not one word.

Q. Did I refer to the French Conscription Law, and if not, by whom was reference made to it?

A. He did not. I did in this connection.

The Judge Advocate objected to what Mr. Cox had said as not being competent evidence.

Mr. Cox desired to say to the court, in explanation of what he said about the Conscription Law, that he had, just before the meeting, been talking with Judge Bartley about our Coscription Law having been copied from the French law, and I merely referred to that in my speech.

Q. Do you remember my quoting from President Lincoln's Proclamation of July 1, 1862, the words "unnecessary and injurious war?

A. I do not; he may have done so, but I did not hear it.

Q. Did you hear similar language used by me?

A. I cannot recollect it.

Q. Do you remember my comments on the charge of the policy of the war some year or so after its commencement, and what reference was made by me in that connection?

A. He did refer to the change in the policy of the war, and I think devoted some time to show that it was carried on for the Abolition of slavery, and not for the restoration of the Union.

Ques. What did he claim to have been its original purpose, and did he refer to any message or proclamation of the President in that connection?

A. He referred in that defense to the Crittenden proposition, declaring the war was for the restoration of the Union, and not to break up the States.

Q. Did I counsel any other mode in that speech, of resisting usurpations of arbitrary power, except by free discussion and the ballot-box?

A. He did not.

Mr. Vallandigham: As I understand that portion of the specifications which relates to the proposition from Richmond has been stricken out, I will ask no questions about it.

Q. Was any denunciation of the officers of the army indulged in by me or