A SUMMARY

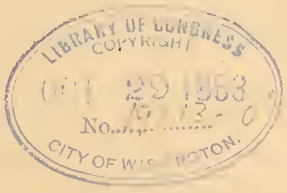
OF

THE CASE OF

GENERAL FITZ-JOHN PORTER,

BY

THEODORE A. LORD.



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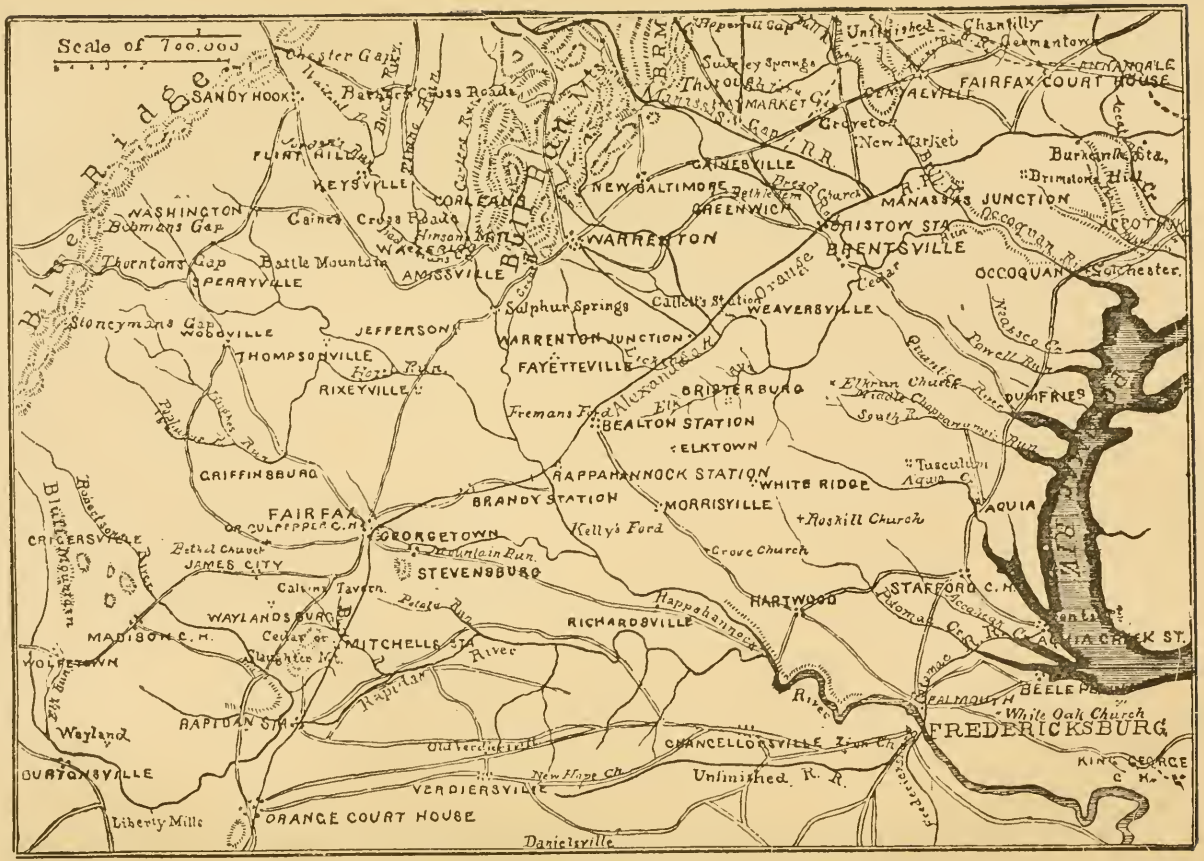


GENERAL MAP OF THE SCENE OF POPE'S CAMPAIGN.

This map is copied, in a reduced form, from a map contained in that admirable work, the "History of the Civil War in America," by the Comte de Paris. I am indebted to Messrs. Porter & Coates, of Philadelphia, the publishers of that work, for their kind permission to use the map. The permission was specially given exclusively for this purpose. Owing to the process employed for reprinting, this map does not do justice to the beautiful execution of the original.

A SUMMARY

OF THE CASE OF

GENERAL FITZ-JOHN PORTER.

The recall of McClellan's army from the Peninsula enabled Lee to leave Richmond, and direct his whole force against General Pope. The latter, with about 42,000 men, was occupying a very advanced position, the main part of his force being in the vicinity of Cedar Mountain, while detachments guarded the fords of the Rapidan. He was confronted by Jackson with about 22,500 men. That enterprising commander had recently beaten Banks, in the battle of Cedar Mountain, and was eager to obtain reinforcements so that he might resume the offensive.

Before the retrograde movement of the Army of the Potomac actually began, Lee dispatched troops to the support of Jackson, and prepared to surprise Pope in his dangerous position. Pope learned of this intention, prudently retired behind the Rappahannock, and held the line of that river from Kelly's Ford to the neighborhood of Freeman's Ford. On the 21st of August, 1862, Lee, with a total force of about 55,000 men, now fully released by the actual withdrawal of the Army of the Potomac, held the opposite side of the Rappahannock.

Being unable to surprise Pope, Lee determined to turn his right flank. On the 22d, Jackson, with his

three divisions and Stuart's cavalry, marched up the right bank of the river, and sent a small part of his force across at Sulphur Springs. That evening, in the midst of a furious rain-storm, Stuart pushed on to Catlett's Station, fired into a train of cars, captured all of Pope's staff papers, attempted, without success, to destroy the railroad bridge, and finally effected a safe retreat. The rapid rise of the river in consequence of the rain, checked Jackson's further progress, and also prevented the return of the force which had already crossed. Pope had, from the first, divined the purpose of Jackson's movement, and prepared to meet it; but, unfortunately, he was so inconstant in his plans, that he adopted a course of action which led only to a useless result. His first intention was to let Jackson cross with all his force, and then attack him while separated from Longstreet. For this purpose the troops were rapidly marched in the required direction. Next, he decided to cross the river and attack Longstreet while separated from Jackson. Then the troops were as rapidly marched in the opposite direction. They had hardly reached the positions last designated, when they were all ordered back again in the first direction, with the hope of intercepting the small force of the enemy which was isolated by the flood. Thus for three days the Federal soldiers were harassed and wearied by hurried and continuous marches and countermarches, only to find that Jackson had quietly withdrawn the brigade which had been endangered, and was preparing to make a far more serious demonstration.

On the 25th his whole force crossed the river at Hinson's Mill, and reached Orleans. Protected from attack by the Bull Run Mountains, he pursued his way

with all possible speed towards Thoroughfare Gap. Early in the morning of the 26th he passed through the Gap without opposition. That evening he cut the telegraph and tore up the railroad track at Bristoe Station. Still untiring, he pushed on that night for Manassas Junction. Before morning his advanced guard captured the place, after a slight skirmish, and plundered and burned the vast quantity of stores collected there. He was now fully in the rear of the Federal army. He had stopped all of Pope's supplies, and had interrupted all communication with Washington. His movements had completely mystified Pope.

About noon of the 25th the latter was informed that Jackson was moving northward in force, but he could not divine the purpose or destination of the march. He believed that the enemy were going to the Shenandoah Valley, and took no precautions to withdraw his army or protect his communications and supplies. On the same day Lee moved Longstreet's corps up the river, into the positions vacated by Jackson. By a vigorous cannonade and by threatening movements of troops, continued through the 25th and 26th, he diverted attention from Jackson's march, and kept the Federal army in constant apprehension and activity. Late in the afternoon of the 26th, Longstreet crossed the river and followed the route taken by Jackson. It was evident that the two were acting in concert, but Pope was helplessly, almost despairingly, groping to find out what they intended to do. He seems to have thought of every direction but the one they took, and to have planned for himself every course but the right one. The result was a series of erroneous, contradictory, and futile orders—

tedious and useless to follow in detail—which imposed upon the already exhausted and ill-fed troops, long and rapid marches by day and night in wrong directions, whence they were speedily recalled to go in other wrong directions. These harassing and ill-planned movements wore out the strength, spirits, and confidence of officers and men, and left Pope as badly off at the end of them as he was at the beginning.

By the 26th of August, Pope had been re-enforced by 23,000 men of the Army of the Potomac (including the corps of General Fitz-John Porter), and he had previously received 8,000 men by the arrival of Reno's corps. His army considerably outnumbered Lee's, and he had the expectation of a large increase of force as soon as he should place himself where additional troops could reach him. The raid upon the railroad and telegraph at Bristoe Station partially disclosed the secret of Jackson's movement. On the morning of the 27th Pope promptly and properly ordered his army to concentrate upon Gainesville. This step should have been taken sooner, but as it was, he had full opportunity to reap its advantages. The position of Gainesville commands the road leading through Thoroughfare Gap. That road would probably be taken by Jackson in case he should retreat, and certainly by Longstreet, in the endeavor to reach Jackson. Holding Gainesville in force, and strongly guarding the Gap, Pope would intervene between the two wings of the rebel army. No commander could have wished to be better situated. Having intercepted Jackson's most available line of retreat, Pope designed to pursue and defeat him, before he could be joined by Longstreet. The commands of

McDowell, Sigel and Reynolds reached Gainesville on the night of the 27th, and the rest of the army was within supporting distance. Hooker had a successful engagement that evening, at Bristoe Station, with Jackson's rear guard, under Ewell, and the latter had retired in the direction of Manassas. Pope was exactly in the position in which he should have been, and wished to be; but in his zeal to pursue and, as he expressed it, "bag" Jackson prematurely, he threw away all the chances of *bagging* him at all. The troops, after toilsome marching, had no sooner reached the designated positions, in which they ought to have remained, than they were ordered to withdraw, at daylight of the 28th, and start for Manassas. Pope even defeated the efforts which his subordinates made to do something right in spite of him. McDowell had given orders for the disposition of the force under his command, (which included his own and Sigel's corps, and the division of Reynolds, altogether about 30,000 men), so that he could hold Thoroughfare Gap and the road leading from Hopewell Gap. When the order came from Pope to abandon that vitally important position, and march to Manassas, McDowell, though directed to take his whole force, assumed the responsibility of detaching Ricketts' division to guard Thoroughfare Gap, and delay the advance of Longstreet. This was as judicious and meritorious an act as was done during that campaign, but Pope blamed McDowell for having done it.

The order to march to Manassas was based upon the supposition that Jackson was there; but before the movement commenced he had abandoned that place,

and had taken a strong position north of the Warrenton Turnpike. His front was protected by the cuts and embankment of an unfinished railroad, and he held the woods and heights in rear of it. His left rested upon Bull Run, near Sudley Springs, and his right was near the turnpike, between Gainesville and Groveton. More than 20,000 men defended a line only a mile and three quarters long. A. P. Hill was sent to Centerville, to draw Pope in that direction. This he succeeded in doing, and soon rejoined Jackson in the position described. The complete execution of Pope's order, therefore, would leave the way open to Thoroughfare Gap, so that Jackson could retreat, or Longstreet advance, at pleasure. But, as the Federal army was soon to learn, Jackson did not wish to retreat any farther than was necessary to secure a safe position, in which he could await Longstreet's arrival. Pope's dispositions favored the design most admirably and unexpectedly. The movement to Manassas was bad enough, but as if to enlarge the error, Pope, misled by Jackson's ruse, ordered nearly the whole army to Centerville. This was exactly *opposite* to the direction which it should have taken. The chance of retrieving so many false steps was well-nigh hopeless.

In the afternoon of the 28th, King's division of McDowell's corps, while making the retrograde march on the road to Centerville, unexpectedly stumbled upon Jackson, between Gainesville and Groveton. Then ensued the terrific combat of Gainesville, which lasted from five o'clock until nine at night, and ended as a drawn battle. That accidental engagement, which showed, simply, Jackson's zest for fighting and his ferocity in attack, Pope interpreted

as a desperate attempt of the enemy to break through the forces which were supposed to be barring his retreat. That night, therefore, he issued orders for the pursuit and capture of Jackson. But the plan was based upon a serious error. Jackson had no thought of retreating, but King, who was supposed to be holding him in check, and Ricketts, who was expected to detain Longstreet, did retreat. They, not knowing exactly what to do, though meaning well, actually did the worst thing possible under the circumstances. The one retired to Manassas, and the other to Bristoe. The road from Jackson's position to Thoroughfare Gap was thus left wholly unobstructed. As soon as Pope learned of the retreat of King, he sought to remedy the evil by ordering the reoccupation of Gainesville, which he had so carelessly abandoned. But he was then too late; men could not march as easily or rapidly as orders could be issued; fatigue, hunger, uncertainty, and mistake, could not fail to arise in a series of movements so complicated and conflicting. The control of events soon passed out of Pope's hands. He was in the power of Fate. Having sown the wind in mismanagement, he was about to reap the whirlwind in defeat.

About three o'clock in the afternoon of the 28th, Longstreet, accompanied by Lee in person, arrived at Thoroughfare Gap. Though delayed by Ricketts until dark, he gained full possession of the Gap that evening, and a considerable part of his force spent the night on the eastern side of it.

At sunrise the next morning (August 29th), his troops passed through it, and, inspirited by the sound of battle, marched in haste to join Jackson. They reached

their desired positions by ten or eleven o'clock. Pope seems not to have been aware of this, and made all his dispositions, on that day, as if he was still dealing with Jackson, alone and in retreat. How he could have formed or followed such an erroneous idea it is difficult to see, for Jackson stubbornly held his position, and gave no sign of a retreat. Pope knew, too, that Longstreet was at the Gap the night before, and was therefore not more than ten miles from Jackson's position, with an unobstructed turnpike between. But, whatever his theory, if he had not misused his previous opportunity, he would have been master of the movements of both Jackson and Longstreet, for he would have defended the Gap, so that Longstreet could not pass through it, and would have held the only road by which Jackson could reach it.

After Lee's army was actually united, the only wise thing for Pope to do, as he himself realized, before fighting a great battle, was to withdraw to Centerville or some place in the rear, where he could take a favorable position, and rest, reorganize, re-supply and reenforce his wearied and famished army.

During the 29th, occurred that series of fierce but detached, desultory and fruitless combats, known as the battle of Groveton. The Federal troops attacked heroically, but they were in too small force, in every instance, and were not adequately supported, so that they suffered great loss, without gaining any real success. That night and the next morning, Pope stubbornly refused to believe that any considerable part of Longstreet's force had united with Jackson, although he was most emphatically told by Porter and Reynolds that the junction of the enemy was complete. Jack-

son's army remained in one place for two days and a half, and fought every force that came in sight; yet Pope, after two days of such rough handling as his troops received, still hugged the delusion that the enemy were in full retreat. Although his head-quarters were, most of the time, within five miles of Jackson's lines he seems to have been totally blind as to the enemy's real position and movements. Napoleon, whose knowledge of the art of war was equaled only by his knowledge of men, seems to have understood this kind of mental obliquity; for he says: "The first qualification of a general-in-chief is to possess a cool head, so that things may appear to him in their true proportions, and as they really are. * * * * There are some men who, from their physical and moral constitution, deck every thing in the colors of imagination. With whatever knowledge, talents, courage, or other good qualities these may be endowed, nature has not fitted them for the command of armies, and the direction of the great operations of war."

Pope grew more sanguine as his errors developed, and at noon of the 30th he ordered a vigorous pursuit of the theoretically retreating enemy. For this purpose he weakened the left of his line to strengthen the right. Lee saw the movement and let it go on, for he desired nothing better. When it had gone far enough to satisfy him, he advanced his right wing, in the hope of reaching the turnpike in rear of Pope, and cutting off his retreat. The stubborn defense of the Henry-House Hill, by Sykes, of Porter's corps was probably the only thing that prevented the execution of the plan, and thereby saved the Federal army from total rout. Pope was badly beaten, and his army

retreated to Centerville. Lee continued his movement upon the Federal line of retreat, and in the afternoon of September 1st was fought the battle of Chantilly. With that engagement the chapter of disasters in this tragedy of errors ended. McClellan was placed in command, and within fifteen days, gave the Army of the Potomac—so sorely tried, but always faithful and always brave—two victories, the first which had cheered it for many weeks, and the last which it was destined to experience for hopeless months. That army could not anticipate Gettysburg, the first success after South Mountain and the Antietam; but it could remember Malvern Hill, the last victory before those battles, and remember too, that the glory of Malvern Hill belonged—first, to McClellan, and next, to Fitz-John Porter.

The Charges.

Having seen how Pope got into "his scrape," let us now consider how he endeavored to get his reputation out of it. He must needs find some scapegoat to bear his military sins; indeed, it would seem as if it was almost beyond the capability of one man to make so many mistakes in so short a time. It was a matter of astonishment to the rebels themselves. Accordingly, he selected General Porter as most available for the sacrifice. The latter had done distinguished service and was conspicuous as a warm friend of McClellan. He was also a representative of that cultured and conservative regular-army element which, like Napoleon, clung to those antiquated notions, so obnoxious to Pope and Stanton, "of taking strong positions and holding them,—of lines of retreat and of

bases of supplies." The contempt of this element for Pope was quite marked. Even Lee and Jackson seem to have shared it, for upon any other hypothesis their movements were reckless, almost to insanity. Pope modestly ascribed his defeat, not to its true cause, his own redundant incapacity, but to the misconduct of Porter. In consequence of Pope's representations (or misrepresentations), a court-martial was convened at Washington, on the 27th of November, 1862, to try Porter upon charges which involved the penalty of death. The court consisted of Generals Hunter, Hitchcock, Prentiss, King, Ricketts, Casey, N. B. Buford, Slough, and Garfield, with Holt as Judge-Advocate-General.

The charges were:

I. Disobedience of orders, under the 9th Article of War.

II. Misbehavior before the enemy, under the 52d Article of War.

Under the first charge there were three specifications of which the court found Porter guilty. These were substantially:

First. Disobedience to the order of August 27th, requiring him to march from Warrenton Junction at one o'clock in the morning of the 28th, and be at Bristoe Station by daylight.

Second. Disobedience, on August 29th, while in front of the enemy, to the Joint Order to McDowell and Porter, directing them to march towards Gainesville and establish communication with the other corps.

Third. Disobedience, on August 29th, while in front of the enemy, to what is known as the "4.30

P. M. Order," requiring Porter to attack the enemy's flank and rear.

Under the second charge, the specifications upon which Porter was convicted were, in substance:

First. Shameful disobedience to the "4.30 P. M. Order," on August 29th, while within sight of the field, and in full hearing of its artillery; and retreat from advancing forces of the enemy, without attempting to engage them, or to aid the troops who were fighting greatly superior numbers, and who would have secured a decisive victory, and would have captured the enemy's army, but for Porter's neglect to attack, and his shameful disobedience.

Second. Failure of Porter, all day on the same day, to bring his forces on the field, when within sound of the guns, and in presence of the enemy, and knowing that a severe action of great consequence was being fought, and that the aid of his corps was greatly needed; and his shameful falling back and retreat from the advance of unknown forces of the enemy, without attempting to give them battle.

Third. Shameful failure of Porter, on the same day, while a severe action was being fought, to go to the aid of General Pope's troops, believing that they were being defeated, and were retiring from the field; and his shameful retreat away and falling back, under those circumstances, leaving the army to the disasters of a presumed defeat; and failure, by any attempt to attack the enemy, to aid in averting a disaster which would have endangered the safety of the Capital.

Those are the accusations, and they would be sufficiently serious, if they had any foundation in truth.

General Gordon says, that "the proceedings instigated by Pope, were the most indefensible and the most indecent, ever submitted by our Government to the judgment of a court." *

On the 20th of June, 1878, a Board of Officers, consisting of Generals Schofield, Terry and Getty, was convened by President Hayes, to "examine, in connection with the record of the trial by court-martial of Major-General Porter, such new evidence relating to the merits of said case as is now on file in the War Department, together with such other evidence as may be presented to said Board, and to report with the reasons for their conclusion, what action, if any, in their opinion, justice requires should be taken * * * by the President." This Board, after a patient and thorough examination of all attainable evidence, and after most elaborate arguments on both sides, by counsel of exceptional learning and acuteness, rendered a decision showing the errors which led to the conviction of Porter, and completely vindicating him from all the charges. They say: "Porter's faithful, subordinate, and intelligent conduct, that afternoon (August 29th), saved the Union Army from the defeat which would otherwise have resulted, that day, from the enemy's more speedy concentration. * * * * * Porter had understood and appreciated the military situation, and so far as he had acted upon his own judgment, his action had been wise and judicious."

Let us examine the case with all the light which is now thrown upon it, and see whether the opinion of the Court-martial, or that of the Board of Officers, is most in accordance with the law and the evidence.

* "The Army of Virginia from Cedar Mountain to Alexandria." George H. Gordon. p. 328.

The newly-discovered evidence presented to the Board, was not used or desired for the purpose of making a new defense; that is, one in any way different from that maintained before the Court-martial.

Porter's vindication was not an afterthought. It did not arise from subsequently discovered and accidental excuses for action which was reprehensible at the time. He based his conduct at the time upon what he then knew, and he justified it by that, and that only. He proved beyond a reasonable doubt, all the facts which he alleged, and which were ample for his justification. But the court was not convinced, and condemned him. The new evidence simply confirms the previous defense, and conclusively establishes as absolute truth, what the Court-martial chose to consider baseless pretense.

There is one accusation which requires no argument, and may as well be disposed of summarily. That is all the matter relating to a retreat, whether shameful or otherwise. There was no retreat by Porter, as charged, and no semblance of any; nor was there any evidence of a retreat. In fact, the evidence was positive to the contrary. The verdict upon this point was made, as the saying is, "out of whole cloth." It was simply false. Some exercise of imagination is necessary to account for it, and more of charity to excuse it.

Taking the accusations in their order, the first relates to

The Night-march from Warrenton Junction to Bristoe Station.

On the night of the 27th of August, Porter was at Warrenton Junction with orders to march to Greenwich as soon as Banks should relieve him at the

Junction. His corps numbered about 10,000 men. One of his divisions had marched that day from twelve to fourteen miles; the other, nineteen or twenty miles. The troops had been marching with but little intermission for thirteen days previously, sometimes by night as well as by day, and always rapidly. They were very much worn with fatigue, and had suffered greatly from the heat, dust, and lack of food and water. For several days they had lived upon a scanty supply of coffee, hard bread, and sugar, or upon what they could pick up in the neighboring cornfields and orchards. Morell's division, which had marched the farthest that day, did not reach camp until after sunset, and from the delay in getting supper, the men were not in bed at ten o'clock. About that hour Porter received the following order:

HEAD-QUARTERS, ARMY OF VIRGINIA,
Bristow Station, August 27, 1862.
6.30 p. m.

GENERAL: — The Major-General commanding, directs that you start at one o'clock to-night, and come forward with your whole corps, or such part of it as is with you, so as to be here by daylight to-morrow morning. Hooker has had a very severe action with the enemy, with a loss of about three hundred killed and wounded. The enemy has been driven back, but is retiring along the railroad. We must drive him from Manassas, and clear the country between that place and Gainesville, where McDowell is. If Morell has not joined you, send word to him to push forward immediately; also send word to Banks to hurry forward with all speed to take your place at Warrenton Junction. It is necessary, on all accounts, that you should be here by daylight. I send an officer with this dispatch, who will conduct you to this place. Be sure to

send word to Banks, who is on the road from Fayetteville, probably in the direction of Bealton. Say to Banks, also, that he had best run back the railroad trains to this side of Cedar Run. If he is not with you, write him to that effect.

By command of Major-General Pope,
GEORGE D. RUGGLES,
Colonel and Chief of Staff.

Major-General F. J. PORTER,
Warrenton Junction.

P. S. If Banks is not at Warrenton Junction, leave a regiment of infantry and two pieces of artillery as a guard till he comes up, with instructions to follow you immediately. If Banks is not at the Junction, instruct Colonel Clary to run the trains back to this side of Cedar Run, and post a regiment and section of artillery with it.

By command of Major-General Pope,
GEORGE D. RUGGLES,
Colonel and Chief of Staff.

The distance to Bristoe Station was ten miles. The only road leading there from Warrenton Junction was crooked and narrow, in some places not more than ten feet wide. It ran, for a considerable part of the way, either through or along the edge of dense woods. It was full of little stumps, and seemed to be a newly cut military road. It was crossed by a dozen or more small streams, whose beds were like quicksand and whose banks were either swampy and fringed with thick bushes, or so high and abrupt as to be difficult of ascent. It was encumbered at this time by the wagons of the whole army, some 2,000 to 3,000 in number, which had been pouring into it from two directions during the entire day. In its windings, it several times crossed the railroad track, upon which, by General

Pope's order, trains were running during the greater part of the night. Such was the road over which the troops were obliged to march. There were no open fields which they could take. The adjacent country was in some places swampy, and the open spaces which would have been otherwise passable, were occupied by the wagons, parked in confusion.

At ten o'clock, the time when the order was received, the night was extremely dark. Even a witness for the prosecution says that it was as black a time for a while as he ever saw; he could not see six feet except by the flashes of lightning. General Roberts, who made the charges, and Colonel Marston, a witness for the prosecution, both say it was quite dark; the latter was out on a picket line and lost his way.

General Patrick says: "It was one of the darkest of nights." Lieutenant-Colonel Brinton, with two officers, was two hours in going three miles on horseback along the road described. He says that they ran into a tree upon one side, or a wagon on the other, without seeing it until they were upon it. In the open plain they could not see a wagon fifteen feet off. He lost his way, as did many officers that night, going singly or with escorts and guides. Colonel Ruggles was lost in going a few hundred feet from the bivouac. The whole night was cloudy and threatening. About ten o'clock, and again before morning, there was a drizzling rain.

Altogether, thirteen witnesses, two of them for the prosecution, swore before the Court-martial that the night was quite dark; many said very, or unusually, or extremely dark. Their testimony is supplemented

and strengthened by the statements, before the recent Board of Officers, of fourteen others to the same effect. The experiences hereafter related will show whether those opinions were well founded or not.

Upon the receipt of the order, General Porter stated its purport to his principal officers, Generals Sykes, Morell and Butterfield, and handed it to them to read. They earnestly remonstrated against starting at the time named. Porter replied in substance, "There is the order; it must be obeyed." The officers urged the fatigue of the men, the darkness of the night, the obstructions in the road, the loss by straggling, and the delay and confusion which would inevitably ensue, as reasons for postponing the march until daylight. They further argued that they could make more effective progress, and the troops would be of more service, by starting at daylight than at one o'clock. The officer who brought the order had been three hours and twenty minutes on the way. He said that it was very dark, and he had experienced much difficulty with the wagons. Porter had been informed by his own officers, earlier in the evening, of the bad condition and obstruction of the road. "After considerable discussion, and with a good deal of reluctance," he partially yielded to the protests of his officers, but ordered them to move promptly at three o'clock.

There were other considerations which were obvious to Porter, in connection with Pope's order.

First. Literal compliance with it was impossible in the time mentioned. To start at one o'clock and reach Bristoe at daylight, allowed only three hours for a march of ten miles. Three miles an hour is very rapid marching for troops on a good road and with

daylight. Yet Porter was expected to march at that rate or faster, over such a road as he had, and in the darkest part of an unusually dark night. In other words, he was required to take 10,000 foot-soldiers broken down with fatigue, a given distance, in *less time* than that necessarily taken by a single horseman with an urgent order.

Second. Although the order was sufficiently urgent, as were most of Pope's orders during all the time of these events, yet it gave the reasons for haste, and those reasons hardly bore out the urgency of its terms. They showed that the purpose of the order was not to meet any present danger of attack, but to pursue a retreating enemy and drive him from the surrounding country. The march to Bristoe was only the first step in a movement which required further marching for an indefinite distance, and perhaps fighting. As the literal execution of the order would have been very difficult under any circumstances, and was wholly impossible, as we have seen, under those existing, it was a matter of discretion with Porter so to use his men that they would be most effective for carrying out the general purpose of his commander. The question occurred to Porter whether it would best subserve that purpose to call his weary men up at half-past eleven o'clock,—for it was necessary to sound the reveille at least an hour and a half before starting,—and keep them on their feet, uselessly waiting or hopelessly laboring until daylight for the removal of obstacles which, by daylight, could be easily dispersed, and then bring them in unfit for further service until after a long rest; or to rest for a few hours, and thereby enable them to accomplish the march with comparative

ease, arrive as soon as they could otherwise, and be fit for anything that might be afterwards required of them. To needlessly deprive the troops of rest that they might reach Bristoe no earlier, and then be obliged to halt half of the day from weariness, would have been about as senseless a thing as Porter could do; for, to the uselessness of the force would have been added the straggling and general demoralization which fatigue produces.

Third. The order directed Porter to come forward with his "*whole corps*," or such part of it as was with him. Under this, he would not have been justified in attempting to hasten his march, by taking his infantry and leaving his artillery. The exception in the postscript of the order, in reference to leaving a *section* of artillery in a certain contingency, implied as strongly as could be, that he was expected to bring the rest of his artillery with him.

But, it may be said, if Porter knew the difficulties, and could not effect the desired object by starting at one o'clock, that was the strongest reason for starting earlier, rather than later. So it was, if men were mere machines, driven by a force which required no rest, and which can be turned on and off at pleasure. If anything was to be gained in the darkness, and the men could endure the fatigue, Porter's duty certainly was to urge them forward, from the time he received the order; but of the advantage of moving, and of the condition of the men, he was the sole responsible judge. The question with him was, how could he soonest reach Bristoe, with his troops in condition for further service? He yielded his own desire to move at the time mentioned in the order, to the better

judgment of subordinates whose zeal and capacity were never questioned; and in so doing he acted wisely. He gave his tired troops a few hours of needed rest, and accomplished all that could have been effected in many hours of darkness. His only fault was in not deferring the time of starting until daylight.

He did not leave Pope in ignorance of the situation, but wrote him stating the difficulties, and asking for cavalry (as Porter had none), to clear the road. Pope admits receiving that dispatch before daylight; and he also admits that he received one or more requests to have his end of the road cleared; but, as in the case of several other writings which were of value to Porter, the dispatches were demanded of Pope, but were never produced. Porter also requested Lieutenant-Colonel Brinton who arrived about twelve o'clock, to bring up some of the First Maine Cavalry from Catlett's Station. He sent out two officers to explore the way, and they were obliged to dismount and feel for the road. Lieutenant-Colonel Locke, Porter's Chief-of-Staff, was severely injured by falling over a stump in the middle of the camp.

At three o'clock, when the march commenced, the obstacles encountered fully equaled the expectations. It was with great difficulty that officers formed their commands, or men found their places in the ranks. An aid-de-camp who was sent to find the way, and guide the column, though assisted by several soldiers, returned and said he could not distinguish the road. The leading brigade was obliged to light candles in going through the woods. Artillery and wagons were mired, not five hundred yards from the camp; the wheels sank up to the hubs in the marshy soil.

Lieutenant (now Major) Randol, a most capable officer and remarkably intelligent witness, says that with all the ingenuity he could use in cutting his way, and extemporizing a crossing, *it took him two hours to get his battery across one stream.* By the time the commands were fairly extricated from the camp, they came upon the wagon-train. Wagons and artillery were stalled on both sides of the streams, and in the middle of them. Wagons blocked the road, and were four or five deep on the sides of the road. General Warren says they were "pell-mell,—'*parked*,' like a lot of ice that jams in on the shore." That describes the condition vividly. Many miles of such confusion had to be cleared up, when it was so dark that one could not distinguish a wagon five yards off. The teamsters were insubordinate, and were acting without system, and under no authority. They had not seen a wagon-master for a week, and were going independently, they said. When driven off the road, they would turn into it again, and thereby break up the commands and cause great disorder and delay. General Sykes was obliged to station officers with drawn swords, to keep them back. Another officer threatened to shoot them. Sykes says that he never had so much trouble with wagons in his life. He was obliged to halt his brigades for an hour, on account of wagons intervening, Lieutenant-Colonel Locke says that the work at Savage's Station and White-Oak Swamp was holiday work to that. Many of the troops were under arms at two o'clock, and remained in the road until daylight or after, waiting to take their places in the column. This experience amply justifies the judgment of Porter and his principal officers, as to the uselessness of starting any earlier than they did. Porter wisely refrained

from harassing his men, by trying to do what he knew to be impossible. It was proved, and was admitted by a witness for the prosecution, that General Porter personally, and his entire staff, used great exertions to clear the way and expedite the march. But little progress could be made until daylight; after that the difficulties were more easily overcome, and the command made good speed to its destination. General Porter rode on ahead and reported to Pope about eight o'clock in the morning, and his corps was fully up by ten o'clock, or a little after.

A march of ten miles in seven hours, under such difficulties, indicates not only very creditable, but extraordinary celerity. The experience of other persons and other commands, on the same night, will afford us a good standard of comparison. Two officers of General Pope's staff, mounted of course, with a guide, left Warrenton Junction for Bristoe at midnight, lost their way, and did not reach their destination until seven o'clock in the morning. General McKeever, with a small escort, required four hours to ride over the same road in the afternoon of the twenty-seventh. General Patrick, of King's division, was from dusk until midnight, about five hours, in marching seven or eight miles, on a turnpike road. At ten o'clock, the time when Porter received his order, Patrick's orderlies and a part of his staff dismounted to feel for the road. He himself was lost. Men were placed across the road, lest the commands should pass the points were they were expected to bivouac. It was so dark, that the openings on the side of the road could not be seen.

Ricketts, with his division, started at two o'clock in the morning, marched on a fine turnpike road

obstructed by only 200 wagons, and in *nine* hours had not gone twice the length of the division front from where he started. The part of this command to which Captain Duryea belonged left Warrenton by daylight, and was engaged until midnight in marching three or four miles. The troops were obliged to halt every ten or fifteen minutes. The commands of Kearney and Reno reached Bristoe about the same time that Porter did, although they had marched only four miles, and had been ordered, as Pope expressed it to Kearney, in language of oriental fervor, "at the very *earliest blush of dawn*," to push forward with all speed, so as to "*bag the whole crowd.*" Yet Porter's alleged delay, which in reality was no delay at all, was a willful violation of orders, because to one of Pope's staff officers he *looked* as if he was a traitor! And the Court-martial listened to such contemptible nonsense, and condemned a gallant and faithful soldier.

Porter gave his troops two hours of needed rest, and reached his destination as soon as he could have reached it if he had started earlier. The most effective part of his march must have been made after daylight, in either case; but in the one his troops were in condition for further service, and in the other they would have been useless. As it was, he arrived at Bristoe in time for every purpose for which Pope required him. The two hours delay in starting made no difference to Pope whatever. Porter was at hand for disposal as Pope saw fit. Pope had "much conversation" with him that morning, and made no complaint of the delay—"said nothing about obeying or disobeying." He afterwards expressed himself as satisfied with Porter's whole conduct, excepting one trivial matter, which even the Court-martial ignored.

Pope made no plans or disposition of his forces, different from what he would have made if the delay had not occurred. He said that the necessity had passed. The movement he was making, was the withdrawal from Gainesville, the most fatal error of that long series of errors, and he was soon obliged to countermand it. If anybody was to be cashiered for the false movements of that day, it should have been Pope, not Porter.

Despite the urgency of the summons, Pope had no use for Porter after he got him. The latter remained at Bristoe the entire day and night of the twenty-eighth. Twice during the day, he sent to Pope for orders, and twice received the answer, "Tell him to stay where he is, when wanted he will be sent for." It was not until about six o'clock in the morning of the twenty-ninth, that he received orders to move.

In judging of Porter's conduct throughout these events, we must bear in mind the rule which results from the ever-varying nature of circumstances in military affairs. It is stated by Napoleon, and is so well settled as to have become a maxim. He says: "An order requires passive obedience only when it is given by a superior who is present on the spot, at the moment when he gives it. As the superior is then familiar with the state of affairs, he can listen to objections, and make the necessary explanations to the officer who is to execute the order."

It follows therefore, that, in the absence of the superior, an officer is always justified in using a reasonable discretion. As far as circumstances will admit, he is expected to comply with the spirit of the order, but he is not a slave to its letter.

Porter used his discretion in this instance, rightfully and reasonably. His "disobedience" consists solely in his not doing an impossible act for a useless purpose.

On this head, we may justly conclude:

First. That it was absolutely impossible for Porter to obey the order literally.

Second. It being so, he had a right to use his discretion as to the manner in which he could best fulfill the intention of his commander.

Third. He used that discretion reasonably and efficiently.

Fourth. His action, whether right or wrong, proved to be of no earthly importance.

There was nothing in Porter's conduct in this instance, to base charges upon, and nothing deserving the name of evidence, upon which to found a conviction. But a Court which could find the fact of a retreat when there was no retreat, and no evidence of any, could as easily find the fact of disobedience, when there was no disobedience and no evidence of any. It is but fair to assume that this charge relating to the twenty-eighth of August, was entirely an afterthought, —a makeweight—and would never have been heard of, but for the occurrences of the succeeding day, and Pope's inglorious failure.

As the charges of disobedience of orders and "shameful behavior" on that day grow out of the same events, and are closely interwoven, we will treat of them together. By knowing exactly what Porter was able to do, and what he did, we can judge whether he disobeyed or committed any "shameful" act.

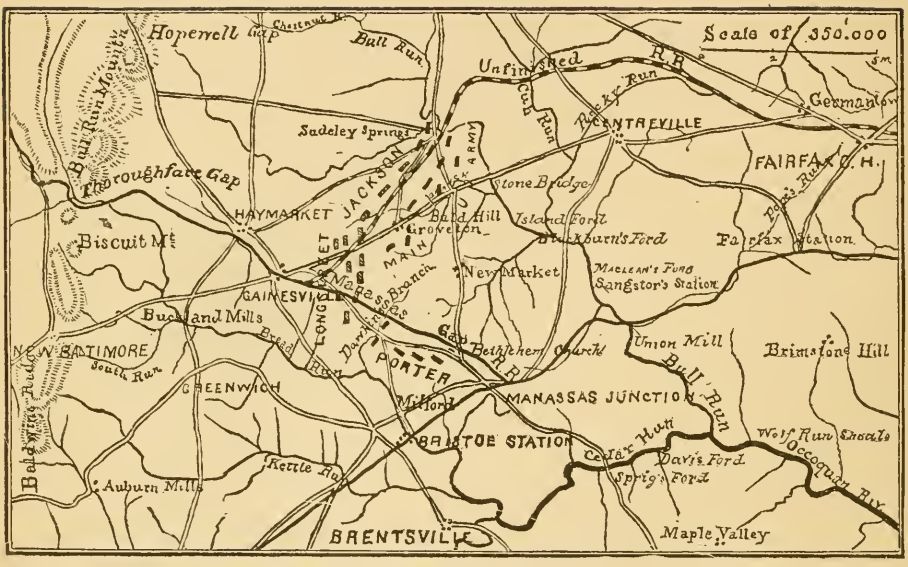
Events of the 29th of August.

Pope swore before the Court-martial that he feared the arrival of Longstreet at any moment, and expected it *certainly* during the afternoon of the 29th, (and there was every reason why he should have expected it earlier); yet in the orders which he issued to Porter about ten o'clock in the morning of that day, he says: "The indications are that the whole force of the enemy is moving in this direction, at a pace that will bring them here (Centerville) by *to-morrow night or next day*."

Again, Pope stated in his Report to the Committee on the Conduct of the War, (and he has sworn to substantially the same thing), that about sunset of the 29th the main body of Longstreet's force began to reach the field; that he is "positive," up to five o'clock in the afternoon, Porter had in his front no considerable force of the enemy; that he "believed then," as he is "very sure" afterwards, that Porter might have turned Jackson's flank and attacked his rear, up to eight o'clock in the evening, before Jackson could, *by any possibility*, have been sufficiently reenforced; that during the whole night of the 29th, and until noon of the 30th, the advance of the main army under Lee was arriving on the field, with fresh forces even then coming from the Gap. In other words, Pope claims that Lee was *twenty-four hours* behind time, in going a little over nine miles; and that there was not a rebel on the field, excepting Jackson, until night, and very few then; yet we find him writing to Halleck, early the next morning, August 30th: "We fought a terrific battle here yesterday with the *combined forces* of the enemy, which lasted with continuous fury from daylight until after dark."

How these and many conflicting statements of Pope's are to be reconciled, can be known only when the Recording Angel exhibits and explains the complicated entries which must have resulted from this campaign. Pope himself declined the opportunity for explanation when he was invited to testify before the Board of Officers. All of those statements cannot truly indicate what Pope believed. The question arises, did he intend to deceive his subordinate at the time, and thereby entrap him into a false movement which would cover his own delinquencies in case of failure, or did he afterwards intend to deceive the public and the Court, and thereby secure the condemnation of that subordinate, when on trial for his life, after Pope's failure was complete? It is difficult to decide which is the more charitable view to take of such contradictions. I am disposed to conclude that Pope really did believe what he said in his order, and did not believe what he said afterwards, though when he knew Longstreet had possession of the Gap the night before, it is hard to see how he could suppose that the latter would be from thirty to forty-eight hours in marching fifteen miles, to Centerville. On the other hand, it is almost equally hard to understand how he could expect Longstreet to be from the night of the 28th till the afternoon of the 29th in marching nine miles to Jackson's position. It is a puzzle in either view. Pope's ideas of the rebel movements throughout, were so erratic, that it is doubtful if he had at any time a clear discernment of what he really did think. His was a case of "mournful obstinacy in seeing things not as they were, but as he thought it to his interest they should be."* His erro-

*Quatre Bras, Ligny and Waterloo. Dorsey Gardner.



OPERATIONS OF AUGUST 29TH.

This map is compiled from maps contained in two works of the highest excellence and interest, viz.: "The Army under Pope," by Mr. John C. Ropes, published by Charles Scribner's Sons, New York, and "The Army of Virginia from Cedar Mountain to Alexandria," by General George H. Gordon, published by Houghton, Osgood and Company, Boston.

My thanks are due to Mr. Ropes, General Gordon and Charles Scribner's Sons, for their kindness in permitting the use of their maps. Their permission was specially given to me solely for this purpose.

neous belief certainly furnished a very bad omen for the operations of that day.

During the night of the 28th, believing that King had intercepted Jackson's retreat, Pope ordered the whole army to begin the pursuit at daylight the next morning. But this pursuit seems to have been by a sort of inverse movement, for he ordered the commands of Hooker and Porter to march to Centerville, the farthest point in the rear yet reached, expecting them to fall in behind Kearney, who was to advance at an earlier hour directly down the turnpike. Porter was at Bristoe station where we left him, and had he been ordered to march towards Groveton by the Sudley Springs road, he would have saved about ten miles of distance and a corresponding length of time. When he received the order, about six o'clock in the morning, it was evident to him from the location of the battle of the previous night, and from the cannonade already in progress that morning, that the enemy were near Groveton and far from Centerville. Though he realized the error, he obeyed promptly, and had gone two miles and a half beyond Manassas, when he received the usual countermand, by an order, first oral and afterwards in writing, as follows :

HEAD-QUARTERS ARMY OF VIRGINIA,
Centerville, August 29, 1862.

Push forward with your corps and King's division, which you will take with you, upon Gainesville. I am following the enemy down the Warrenton turnpike. Be expeditious or we will lose much.

JOHN POPE,
Major-General commanding.

Major-General Porter.

The reason for this order was that Pope had learned early in the morning of King's retreat to Manassas. He knew that the way was open for Jackson's escape, and he greatly feared that the latter would not stay to undergo the *bagging* process. Accordingly, he ordered Sigel to attack the enemy as soon as it was light enough to see, and if possible bring him to a stand. By sending Porter with a strong force in the direction of Gainesville, he hoped to repair the error of abandoning that place the day before. Soon after this order was issued, Pope heard that Ricketts had been driven from the Gap by Longstreet the night before, and had retired he knew not where. There was nothing, therefore, to prevent the junction of the rebel forces, unless Porter could reach Gainesville before that event could occur. Herein Pope committed that old error, of which history furnishes so many lamentable examples, and military science such positive prohibitions, of directing converging columns upon a point which the enemy can reach first. Even before Porter received his order, Longstreet's troops were marching through Gainesville, and the junction with Jackson was virtually complete. About nine o'clock or half-past nine, Porter repassed Manassas, and pursued his march towards Gainesville on the road leading past Bethlehem Church. At Manassas he was joined by McDowell, and from him learned the situation of the night before, and the imminence of Longstreet's arrival. McDowell was aggrieved that King's division had been taken from him and given to Porter, and Porter was dissatisfied because the orders which he received were so conflicting, and were delivered, sometimes orally, by persons

whom he did not know and of whose authority he was not certain. The remonstrances of both officers reached Pope about the same time. To satisfy both he sent to them what is known as

"The Joint Order."

It was as follows :

Head-quarters Army of Virginia,
Centerville, August 29, 1862.

Generals McDowell and Porter :

You will please move forward with your joint commands towards Gainesville. I sent General Porter written orders to that effect an hour and a half ago. Heintzelman, Sigel and Reno are moving on the Warrenton Turnpike, and must now be not far from Gainesville. I desire that as soon as communication is established between this force and your own, the whole command shall halt. It may be necessary to fall back behind Bull Run at Centerville, to-night. I presume it will be so on account of our supplies. I have sent no orders of any description to Ricketts, and none to interfere in any way with the movements of McDowell's troops, except what I sent by his aide-de-camp last night; which were to hold his position on the Warrenton Turnpike until the troops from here should fall upon the enemy's flank and rear. I do not even know Ricketts' position, as I had not been able to find out where General McDowell was until a late hour this morning. General McDowell will take immediate steps to communicate with General Ricketts, and instruct him to rejoin the other divisions of the corps as soon as practicable.

If any considerable advantages are to be gained by departing from this order, it will not be strictly carried out. One thing must be had in view, that the troops must occupy a position from which they can reach Bull Run to-night or by morning. The indications are that

the whole force of the enemy is moving in this direction at a pace that will bring them here by to-morrow night or next day. My own head-quarters will be for the present with Heintzelman's corps, or at this place.

JOHN POPE,
Major-General commanding.

Porter had continued his march from Manassas for five miles along the road to Gainesville, until, about half-past eleven in the morning, he reached a small stream called Dawkins Branch. There two scouts were captured, who said that they were Longstreet's men, and that Longstreet's corps was in Porter's front.

On the hills a little distance in advance, the enemy's skirmishers were seen, while beyond, in the road in front, and on the turnpike, clouds of dust which rose above the trees, indicated the presence of a large force. Porter following his orders to push forward with King's division upon Gainesville, prepared for action. He threw out a regiment of skirmishers, deployed his leading division in line of battle, and sent Butterfield's brigade across the stream, to occupy a commanding hill. The skirmishers were exchanging a few shots with the enemy, when about noon an officer arrived with the Joint Order. Shortly afterwards McDowell, who had accompanied the column from Manassas, rode to the front and showed to Porter his copy of the order. Before the receipt of that order, there is little doubt that McDowell had no authority over Porter, and he exercised none; after its receipt, it is certain that he, as the ranking officer, was entitled to command the whole force, while he remained with it. The conditions were precisely those contemplated by the (old) 62d Article of War. This was understood and accepted by both. McDowell saw the preparations

for attack, and heard the shots of the skirmishers. Almost the first thing said by him was, "Porter, this is no place to fight a battle; you are too far out already. Put your troops back into the woods," or words to that effect. In consequence of these suggestions, which were in reality orders, Porter suspended his preparations for attack. McDowell showed him a dispatch just received from General Buford, stating that seventeen regiments, one battery and 500 cavalry had passed through Gainesville at a quarter before nine o'clock that morning. This they knew of course was a part of Longstreet's corps which had driven Ricketts from the Gap the night before, and they also knew that the rest of his command would be closely following. The appearances in their front, the capture of the scouts and the dispatch of Buford indicated, unmistakably, that Longstreet's force was before them, and that the rebel army was united.

They discussed the Joint Order, especially the requirement imperatively repeated, that they should be in a position from which they could reach Bull Run that night or the next morning. It was doubtless that requirement which McDowell had in mind, when he said, "You are too far out already;" that is, too far from the rest of the army, and the point of concentration behind Bull Run. They were then, at noon, eight miles from Bull Run, and the troops were in a condition bordering on starvation.

An advance was evidently impossible without fighting a battle, and a battle, especially against Longstreet's corps, was forbidden by the tenor of the Joint Order; for besides the necessity of supplies, it was the expected arrival of his force, that was given

as a reason for the imperative injunction to retire. McDowell and Porter rode over to the right to see if they could not, by a flank march across the country, establish the communication directed by the order. This was found to be impracticable, and it was finally agreed that the best way to carry out the purpose of the order, under the discretion allowed by it, was for McDowell to take King's division of 8,000 men, march up the Sudley Springs road, directing Ricketts to follow, and thereby form a connection with the other corps. Almost immediately McDowell started.

It is certain that McDowell gave up the idea of Porter's further advance, or of his fighting in that place, as soon as he decided to take King and Ricketts away; for he remarked to General Patrick, soon afterwards, "Porter has gone as far as he can go;" and McDowell certainly would not have withdrawn 15,000 men, to go he knew not where, at the very moment when he expected an attack to be made by the remaining 10,000.

It is manifest, and McDowell testifies, that up to the time when he left, which was shortly after twelve o'clock, everything was done by the joint force that should have been done. If not, then the fault was McDowell's and not Porter's. After the receipt of the Joint Order, Porter was a subordinate, and could do nothing without McDowell's consent. It was for McDowell to say whether there should be a halt, or an attack, or, as he finally decided, a separation of their forces. If he had wished to attack, he had immediately in hand 17,000 or 18,000 men, and by ordering up Ricketts, could have controlled a force of 25,000. They were tired and hungry to be sure, but still

effective. If an attack was to be made at all, it should have been made with all the force available, and McDowell was too experienced a soldier to think otherwise. He is in no wise to blame for not making an attack. Under the injunctions of the Joint Order and the evident necessities of the army, as he said, it was no place to fight a battle. An isolated engagement, even with 25,000 men, without communication and without supports, against a presumably superior and actually equal force of the enemy, on their own ground and with full facility of concentration, would have been a hazardous and reckless undertaking. Such a rash venture was not warranted, either by sound military principles or by the terms of the Joint Order. The order was to effect communication, then halt, and afterwards retire.

Even the discretion allowed was limited by the one consideration which was to be steadily kept in view, viz.: the necessity of retiring behind Bull Run, because the enemy who then actually confronted them, was slowly coming! The order implied that, if they were to fight at all, especially against Lee's united army, the battle should be behind Bull Run. The rules of the military art dictated the same thing. Pope has testified that he did not desire to pursue Jackson, even if alone, farther than Gainesville, on account of the necessity of retiring for supplies. It must be admitted that an order to march *until communication is established, then to halt,* and afterwards *retreat,* is not of such an inspiriting character that, like Colonel Hamilton's speech at Yorktown, it would lead a man to "*storm Hell*" in response to it!

McDowell wisely refrained from battle then and there, and properly decided to use the discretion allowed by the letter of the order, to carry out its spirit. He took the divisions of Ricketts and King, and went to seek the communication which could not otherwise be had.

Porter was convicted of disobeying the Joint Order. But in what did that disobedience consist? His actions are well known, and the order speaks for itself. There can not be pointed out one particular in which he disobeyed it. He was directed to march *towards* Gainesville, and he did so, as far as he could go. He could not go far enough to effect the communication with the other corps, because the enemy stopped him; and for a similar reason the other corps could not reach the place where they were expected to be. This Porter knew, by the cannonade that he could hear east of Groveton, by Buford's dispatch, and by the dust on the turnpike. Therefore, if by any means he had gone all the way to Gainesville, he would not have accomplished what the order intended; for the other corps were four miles and more from Gainesville, and never got any nearer. He did not fight it is true, but a direction to fight can not be wrung from the terms of the Joint Order; nor can any meaning be derived from it, even from the discretionary part, which does not discountenance a battle in front of Bull Run. So it appeared to McDowell, when he had control of a force of 25,000 men. When he declined to fight with that force, and took it away, as he had a right to do, if he saw fit, it was certainly not Porter's duty to fight alone, nor would he have been justified in doing so. If the Joint Order

did not command McDowell to fight, it did not command Porter to fight. As he disobeyed it in no other respect, it may be asked, upon what ground then did the Court-martial condemn him? We are obliged to rely upon conjecture for the answer, just as the Court relied upon it for the facts; and the only rational theory that we can frame to account for so strange a conclusion, is, that it was the result of the same kind of judicial jugglery that could exhibit the fact of a retreat when there was no retreat.

It seems there was something said by McDowell which was erroneously construed into an order to fight. It made no difference that the remark with its attendant circumstances was not susceptible of such a construction; that it was not understood by Porter, and would not have been binding upon him if it had been understood; that it would have been ill-judged if it meant what it was supposed to mean; or that it came from McDowell when Porter was charged with disobedience of Pope. All this was ignored. There was a supposed order to fight, and Porter did not fight; so, because it was erroneously supposed that he disobeyed McDowell's order, he was convicted of disobeying Pope's order. That is certainly the most charitable theory by which to account for the verdict. If that was not the reason for it, then, like the finding in respect to the retreat, there was no reason for it.

There is considerable dispute as to what directions McDowell gave Porter when he decided to go away. McDowell admits that they were vague, and does not fully recollect what conversation he had with Porter. He thinks he said to Porter: "You put your force in here, and I will take mine up the Sudley Springs road,

on the left of the troops engaged at that point with the enemy," or something to that effect. This, Porter has always denied ; and it is in evidence that, as McDowell rode away, Porter called to him : "What shall I do?" To this McDowell made no response, except by a wave of the hand, and Porter saw him no more that day. Whatever McDowell said was evidently not understood by Porter ; and it would not be material now, if it had not apparently formed the ground of the very false conclusion by the Court-martial.

No argument is needed to show the inexcusable nature of a verdict based upon such a total variance between the allegation and the proof. McDowell's remark, however it may be interpreted, was not an order which was binding upon Porter, after McDowell left him ; more especially, if it was opposed to the spirit of the order of their common superior, General Pope. Even if Porter heard the remark, he could not properly derive from it, the meaning ascribed to it by the Court. He could not suppose that McDowell meant for him to attack, then and there, with 10,000 men or less, when McDowell was withdrawing 15,000 troops to go he knew not how far away. McDowell was too good a soldier to order an attack in that manner, and Porter was too good a soldier to suppose that he would be expected to attack unknown numbers in that manner. If McDowell made that remark, "you put your force in here;" Porter could only understand, under the circumstances, what McDowell doubtless intended to be understood, that the expression referred to *place* and not to time or manner. It meant, not, put your force in now, but *when* you put your force in, do so here. It meant, not, fight a battle alone, with a

diminished force and without communication, but, you remain here for future operations, while I go to establish the communication directed by the order. This view is borne out by McDowell's testimony, where he says: "I did not venture to do anything more than indicate the *place where* I thought he was to apply that force;" and that a skirmish line, if it was according to Porter's discretion, would have fulfilled the order. It is evident the order meant nothing more than for Porter to stay where he was. In this view, and in this only, the remark in question is consistent with the other expressions which McDowell is shown to have used about the same time, that this was too far out, and "no place to fight a battle," (as they were then situated), and again, "Say to him (General Porter) that I am going to the right, and will take General King with me. I think he had better remain where he is, but if it is necessary for him to fall back, he can do so upon my left." Can it be supposed that McDowell would order an immediate attack with 10,000 men, when he thought it was too far out, and no place to fight in, with 25,000 men?

When McDowell declined to make an attack in that position with 25,000 men, and took away 15,000 of them into the wilderness, Porter supposed, as it was reasonable to suppose, that he did so for the purpose of bringing the whole army into communication, in accordance with the intent of the Joint Order, and with sound military judgment. Porter did not and could not suppose, that he was expected to attack, or would be justified in attacking, before that communication was established, and McDowell was in a position to cooperate with him. As war is not a conjectural science,

he was right in waiting until he *knew* whether that co-operation was assured or not. In fact, he heard no more from McDowell until night, and during all the afternoon he was left to his own resources and the guidance of his own judgment.

McDowell's suggestions, whether they were, to fight, or not to fight, did not add to, or diminish Porter's responsibility, after McDowell left him. Nor did they afford him any guidance, except to influence him to remain where he was, and await further knowledge of McDowell's movements.

It was Porter's duty to act for himself according to the best light that he could obtain from the orders before him, and from sound military principles.

We have seen that when Porter commanded King's division, in addition to his own, and was acting upon his own responsibility, under orders to march to Gainesville, he prepared to fight his way there. He desisted from attack, only when he was superseded by McDowell, under orders which discountenanced a battle; and was actually directed by him, not to fight. If a battle was to be fought by virtue of the discretion allowed, it was McDowell's duty to fight it, and not Porter's, after McDowell left him. When McDowell, for good reason, declined to fight then and there, Porter, with a greatly diminished force, was certainly absolved from fighting.

We conclude, therefore, that Porter did not violate any order, Pope's or McDowell's, in not fighting. But when his orders failed to provide for the emergency and he was left to his own discretion, did he err in the exercise of it? I think not, in any particular, but if opinions differ upon that point, I would suggest one

consideration which will go far to extenuate the error. It is, that distrust of the commander is a very important factor, in estimating the elements which go to make up the judgment of a subordinate. How can the subordinate intelligently exercise his discretion to carry out the plan of his commander, when he has good reason to think that the commander, himself, has no intelligent plan?

The mistakes in fact, not to mention the numerous errors in principle, which were manifest to Porter during the 28th and 29th of August, were so numerous and so glaring, that they would have destroyed all confidence in Pope's judgment, even if Pope's ridiculous proclamation upon taking command, and the contradictory orders and futile marches for a week past, had not already shaken the faith of the whole army. First, was the urgent night summons to Bristoe, which proved useless, and which was a part of a false movement; next, the order to march to Centerville, when Porter knew there was no enemy near there, and the route would take him far from his proper direction; then, the information that, by Pope's orders, Gainesville had been abandoned, and the way was open for the junction of the rebel forces; then, the countermand of the first order of the morning, which order was far advanced towards fulfillment, and the direction to Porter to retrace his steps for a considerable distance, and march towards Gainesville; then, the errors of fact and of judgment which were contained in the Joint Order. These were:

First. The statment that the corps of Heintzelman, Sigel and Reno were near Gainesville, about ten o'clock when the order was written, whereas Porter knew that those corps were not near Gainesville at

twelve o'clock, and, by reason of Longstreet's arrival, were not likely to be there at all.

Second. The statement, in effect, that Longstreet's force would require from thirty to forty-eight hours to march fifteen miles, which Porter would have known was absurd, even if Longstreet had not then been actually before him. This was such an astounding error on the part of Pope, that it is unaccountable even to this day.

The knowledge that four such mistakes were made in one morning (and more were to come in the afternoon), following two of the day before, was enough to puzzle any officer as to his present duty and the plans of his commander. It was impossible for him, with the best intentions, to know what would subserve the purposes of a commander, whose plans were formed with so little reference to existing facts.

The reasons which induced McDowell to forego an attack with 25,000 men were all the more cogent, indeed were irresistible to Porter, when by McDowell's withdrawal, his force was reduced to 10,000 men or less. In his difficult position he could consider four courses of action:

First. To attack the enemy in his front.

Second. To make a flank march to the right in order to reach the other corps.

Third. To retreat.

Fourth. To remain on the defensive where he was.

We have seen the reasons which he had for not attacking. The woods concealed the enemy's force to a great extent, but Porter's previous knowledge of the presence of a large part, if not the whole, of Longstreet's corps, was confirmed during the afternoon, by frequent reports from officers on the skirmish line.

They saw large bodies of troops, and could hear their movements and the commands of officers. Lieutenant Stevenson estimated that he saw 12,000 to 15,000 men in the enemy's lines, and we know now that he was right. Colonel Marshall said that the enemy's force was double that of Porter's. He saw heavy columns moving into position. For Porter to have attacked without McDowell's co-operation, forces of the enemy presumably and actually superior in numbers to his own, and advantageously posted, ought to have resulted, and undoubtedly would have resulted, in overwhelming defeat. He might, perhaps, have made an attack to see what would come of it, but that would have been anticipating the dreadful errors of Fredericksburg, Spottsylvania Court-house and Cold Harbor. If he began the attack, he could not predict where it was likely to end, or whether or not he would be in a position to retire behind Bull Run that night, as his orders and the famished condition of his men alike dictated. To fight without communication, and so place himself that he *could not* retire behind Bull Run, when he had been ordered to halt with communication, so that he *could* retire behind Bull Run, to fight there if anywhere, would have been as flagrant and criminal a violation of orders, as anything that has been alleged against him.

That his judgment as to the inexpediency of an attack was correct, is confirmed by the concurrent opinions of the most distinguished rebel officers. General Lee says, in a letter to Porter, in 1867: "The result of an attack before 12 M., with 25,000 men, cannot be certainly pronounced; but it ought to have been repulsed if made after his (Longstreet's) troops were formed. The probable result of an attack on

Longstreet, after 12 M., with less than 12,000, would have been a repulse." And again, in 1870: "If a repulse, especially at an early hour, or before 5 P. M., the effect would have been an attack upon General Pope's left and rear by Longstreet and Stuart, which, if successful, would have resulted in the relief of Jackson, and have probably rendered unnecessary the battle of the next day" (August 30th).

General Longstreet, in a letter to Porter, in 1866, says: "We all were particularly anxious to bring on the battle after 12 M., General Lee more so than the rest. If you had attacked any time after 12 M., it seems to me that we surely would have destroyed your army;—that is, if you had attacked with less than 25,000 men."

We have had considerable experience in attacking Lee in his chosen positions, and it has invariably illustrated the maxims of Napoleon, "Not to do any thing which your enemy wishes," * * * and, "Avoid a field of battle which he has reconnoitered and studied."

General Hood writes to Porter in 1874 "* * * * An attack made by you, with about 11,000, it seems to me, would have been attended by a repulse, and perhaps great disaster, had time permitted it to have been followed up."

General Wilcox, in 1870, writes: "I should think it almost certain, had you attacked at 11 A. M., with your command such as I supposed it to have been, you would have been repulsed. Had you attacked any time after 2 P. M., I have no doubt you would have been easily and thoroughly repulsed, and had it have been at or near two o'clock, you would have

been used up, and those on your right might have, and probably would have, been overwhelmed, too."

General B. H. Robertson writes, in 1870, "* * * * I should say an attack with 25,000 men would have failed. After 12 o'clock and throughout the day, I believe an attack with 10,000 men would have been utterly disastrous to the Federal forces."

At one time, late in the day, Porter actually began making preparations for an attack in aid of Sigel, and "that," the Board of Officers say, "was the nearest to making a mistake that Porter came that afternoon."

We need no further authority for the conclusion that his decision not to attack the forces in his front was a wise one. What he had reason to believe, and did believe, at the time, we now prove to have been the truth.

Porter could not make a flank march across the country to go to Pope's assistance or effect communication with the other corps, because the distance was two miles, there were no roads, the ground was broken and rocky, very heavily timbered, abounding in hills and hollows and wooded ravines, intersected by many streams, and wholly impracticable for artillery. The only open country was along the front of the rebel lines, exposed to the full fire of their batteries, and attack by their troops. The moment Porter left his position to make the flank march, his column would be helplessly exposed to attack in flank and rear, which the rebel General Robertson says, would have been "perfectly ruinous." General Longstreet testifies that such a movement would have given his forces just the opportunity they were waiting for, "and we should have pushed it with all the vigor that was in us."

Napoleon says: "Nothing is more rash, or more opposed to the principles of war, than a flank march in presence of an army in position, especially when that army occupies heights, at the foot of which you must defile."

Porter could not retire and take the Sudley Springs road which McDowell had taken, because that was filled with McDowell's troops, King's and Ricketts' divisions, 15,000 men, marching up all the afternoon. Besides, Porter's remaining in position was undoubtedly what made that road safe for McDowell's march.

Porter could not *retreat* entirely, in the face of a vigilant and numerous foe, for that would have been to invite destruction for himself and McDowell, as well as for the rest of Pope's army. Besides, he cannot be blamed for *not* retreating, for it was one of the charges against him, that *he did retreat*, and it was a capital offense, and the Court-martial found him guilty of it, although there was not a word of truth in it. It is difficult to see what they would have found if it had been really true; but he saved them from that embarrassment, by not retreating at all.

He finally decided to remain where he was until he could receive further intelligence or instructions. He prepared for a plucky and obstinate defense, in the strong position which he held. There he remained until the next morning, when he was ordered away by Pope. During the afternoon, he sent two written messages to Pope (neither of which would Pope produce), stating his situation; and at least four such messages to McDowell or Pope, whichever could be first found; but McDowell, not being where it was expected he would be, could not readily be found, and was finally reached when he was with Pope.

Porter could not have known that a severe action of great consequence was being fought, and that his aid was greatly needed, or believed that General Pope's troops were being defeated; because there was no such action, and nothing to give rise to such a belief. There was no time in the afternoon, after Porter reached his position, when more than 5,000 troops were engaged at once. With the exception of an attack by a brigade or two, there was nothing but cannonading, which the army had heard all the way from the Rappahannock, to indicate that any enemy was in their vicinity. At the very time when, according to Pope's opinion, Porter ought to have attacked, Pope himself rode upon the field and stopped the fighting. It was not until nearly night, too late to effect anything, that any musketry firing was heard in Porter's position.

Porter could not see the field of battle at the right, on account of the intervening woods and hills, nor could he hear anything but the artillery firing, which, as General Morell said, did not sound like a battle. Therefore Porter did not believe that Pope's army was being defeated, nor that the aid of his corps was was greatly needed.

There was no such thing as a general engagement, or a "battle raging at the right," that day, despite Pope's assertion that he fought a "terrific battle with the *combined forces* of the enemy, which lasted with *continuous fury* from daylight until after dark." Pope's attacks were so weak and ill-supported that they could not possibly have been successful. General Schurz says in his report: "The troops were frittered away in isolated efforts."

Porter could do little after McDowell left him, but what he did, was a service which Pope would never acknowledge, but for which he ought to have been profoundly grateful. Porter detained in his front the greater part of Longstreet's corps, to hold him in check; and prevented the concentration upon Pope's left, which caused the defeat of the next day. We have General Lee's authority for saying that, but for Porter's presence, the terrible disaster which happened on the 30th of August, would have occurred on the 29th. If so, it would have been fatal to Pope's army, for night was all that saved the Federals on the 30th; and the attack if made the day before, would have begun much earlier, and Pope would have been a day's march farther from his reenforcements.

Chantilly would have been unnecessary, and Antietam perhaps impossible.

But nothing could save Pope. The operations of his mind, and the disposition of his forces, were alike so faulty, that his defeat was merely a question of time.

His ideas and, unfortunately, many of his statements were too little in harmony with the environment.

The Time of Longstreet's Arrival.

The time of Longstreet's arrival upon the field, on the 29th of August, is now so conclusively settled that it seems curious it should ever have been a matter of dispute. Yet all the enemies of Porter have strenuously denied that Longstreet's corps, or any large force of the enemy was before him that day; and Pope has defended that false position with all the heaviest artillery of misrepresentation.

Porter claimed before the Court-martial, and proved the fact beyond a reasonable doubt to any body of men who were not seeking an excuse for condemning him, that the large part of the rebel army, known as Longstreet's corps, was confronting him. This question is the one upon which any estimate of Porter's conduct must chiefly depend. Porter had good reason at the time to believe that Longstreet was before him; he did believe so, in common with all his officers who had opportunity for observation; McDowell believed so; every one who knew anything about it believed so, except Pope, and he professes not to believe it to this day. If Longstreet actually *was* present, then are both the judgment and conduct of Porter justified; for in that case, all of Pope's plans and orders were so at variance with existing facts, that literal obedience was impossible, and discretion could rest only upon general military knowledge.

The question is settled,

First. By the probabilities of the case.

Second. By direct and overwhelming testimony.

The Probabilities.

We know, as Porter and Pope knew, that Lee, with Longstreet's corps, reached Thoroughfare Gap soon after noon of August 28th. A part of his force had passed the Gap, and was driven back by the advance of Ricketts. It may be supposed that Lee was anxious to reach Jackson, knowing that the small force of the latter was exposed to the whole Federal army. He took measures at once, to dislodge Ricketts, which he soon succeeded in doing. At least

three of his divisions encamped that night on the east side of the Gap. From the Gap to Gainesville is six miles and a half; from Gainesville to the extremity of Jackson's line, was about three miles, and from Gainesville to Dawkins Branch, where Porter stopped, was about three miles, with a good road all the way. Lee's line was about a mile in front of Porter, so that, from daylight, Lee would have about seven hours and a half in which to march eight miles and a half, and arrive at his position near Dawkins Branch, at the same time as Porter. At daylight was heard the engagement of Sigel's corps with Jackson, and it is certain that officers and men of Lee's force would not be slow in marching towards the sound of the cannon. With no reason for delay, and every reason for speed, it would be incredible if Lee did not reach his position in much less time than what we have allowed him. We know that he did arrive there in ample time, by

Direct and Overwhelming Testimony.

Longstreet says, in his report: "The march was quickened to the extent of our capacity." He testifies that they moved in the gray of the morning, about four o'clock. After hearing the artillery, they increased their speed to three miles an hour. General Wilcox started at sunrise from Hopewell Gap, and moved rapidly—"too rapidly." He reached the junction of the roads, and found Longstreet's troops going by. Major Williams, aide-de-camp to General Jones, testifies that they made the march "as rapidly as it could be made." General Buford saw what he estimated to be over 14,000 men (more than half of Longstreet's force then present), go through Gainesville, at a quar-

ter before nine o'clock. So much for the rapidity of the march.

As to the time of arrival—besides the indirect evidence derived from the citations which we have given before in reference to an attack—General Lee says: "Longstreet's command arrived within supporting distance of Jackson on 29th August, '62, between 9 and 10 A. M. General Longstreet's command was formed by 12 M., August 29th, in two lines on Jackson's right." And again: "I was there then; I saw Porter approach. I went out and reconnoitered his corps, and made proper dispositions to meet it."

General Longstreet says: "My command (25,000 in round numbers) was within supporting distance of General Jackon at 9 A. M., August 29th, having passed Thoroughfare Gap at early dawn. My command was deployed in double line for attack between 10 A. M. and 12 M. on the twenty-ninth, extending from Jackson's right across turnpike and Manassas Gap R. R. My command was ready to receive any attack after 11 o'clock A. M." He testifies before the Board of Officers: "I think they had been deployed by eleven o'clock in the day."

In addition to that convincing testimony, we have the statements, either in reports, letters, or testimony, of the rebel Generals Robertson, D. R. Jones, Early, Hood, Wilcox, Colonel Marshall, aide-de-camp of General Lee, Major Williams, aide-de-camp of General Jones, and Lieutenant W. M. Owen, Adjutant of the Washington Artillery, all to the effect that the arrival and formation of Longstreet's corps occurred between 10 and 12 o'clock that morning. General Beverly Robertson says: "My videttes had reported your

(Porter's) approach, and Longstreet's forces to meet yours were mainly posted before your arrival. Had you continued your march, or attacked at any time, you would have struck Longstreet's line of battle, over 25,000 strong." It is idle to say that the fallibility of human memory discredits witnesses so intelligent, so numerous, and so reputable, whose testimony is positive and harmonious. The event which those officers describe was one in which they personally took part; it was of great importance, and therefore likely to fix the attention; the hour of noon is one which naturally attracts notice; the start from the Gap at sunrise, within hearing of the distant cannonade, gave them a definite point from which to estimate time and distance; and further, the memory could be refreshed, if doubtful, by reference to their own contemporaneous orders, reports, and memoranda. Buford saw half of Longstreet's force, before nine o'clock, *within three miles* of the position afterwards taken by Porter. Why should not that half have arrived within one mile of that position by half-past eleven, and why should not that part have been followed by the rest? We know with all the certainty which can exist in human affairs that Longstreet's force was present just as Porter believed and alleged that it was.

It is absurd to attempt to combat such evidence, by other evidence equally depending upon the fallibility of memory, and based upon Stuart's vainglorious report, or any other work of fiction. Stuart's report was written six months after the events it erroneously describes. From that report, one would judge Stuart's movements to have been very important; whereas in fact, his whole conduct on the field was that of a busy-

body. He did little useful service; but by ordering troops away from places where they were needed, and into places where they were not needed, he nearly marred the plans of his superiors. He and Rosser may have amused themselves by ordering their command to tie brush to their horses' tails, and drag it along the road, in order to raise a dust—as a story, "that is magnificent, but it is not war"—but whether they did so or not, they did not deceive anybody, for Longstreet was there, and there was nothing for anybody to be deceived about. Other enemies of Porter, with less candor in the avowal and more harm in the result, have been ever since "raising a dust" to conceal the true time of Longstreet's arrival.

But as they are consciously weak in their theory of time, they endeavor to bolster their hopeless cause by another theory in respect to place. They plead a confession and avoidance. They maintain, that even if Longstreet did arrive anywhere near the time when he thinks he did, his troops were not placed where he and Lee and other prominent officers think they were. They try to prove by the testimony of citizens and chaplains, that the rebel lines were west of Page Land Lane, a mile or more back of their actual position. That, when those lines were arranged by Lee in person, with special reference to Porter's presence, they were not placed where they could do Porter any harm, or interfere at all with his movements. We have neither time nor space in which to argue against such "preposterous conclusions." Nor is it necessary. Lee with Longstreet was in Porter's front, whether near this or that citizen's house, is not material; he reached his position before Porter came up; he had

the choice of the country, and doubtless took the position he wanted to take; he arranged his lines in person, with special reference to Porter. I have sufficient faith in Lee's military judgment, to believe, that the position chosen was the most commanding and best for *all purposes*, which the vicinity afforded; that when Lee saw Porter approach, and disposed his troops to meet him, those troops were placed where they would be most effective.

Lee, Longstreet, and others identify on maps the place where they were, and describe the formation of their lines. Their opinions substantially agree with Porter's. Colonel Marshall, Lee's chief-of-staff, found and identified the position of the troops he visited, and the tree which he climbed near Lee's head-quarters; and if Lee's statement of the position of his line is not correct, and Marshall is worthy of belief, Lee's head-quarters must have been far in advance of his first line.

General Lee personally arranged his lines; and when he says that he saw Porter approach, and made dispositions to meet him, I believe it; and I should believe that Lee knew what he saw, and knew where his troops were placed, and that they were most advantageously posted, if all the citizens in the county and all the chaplains in the Confederacy should gainsay it. Besides, we know where Porter was, and we know from the testimony of his officers, that the woods in front of them were full of hostile skirmishers; and large bodies of troops, estimated at from 12,000 to 15,000, were seen on the hills beyond. Heroic men crawled towards the rebel lines, where discovery was death, and heard the movement of troops, and the commands of officers.

We have seen that Porter had good reason to believe that Longstreet was before him in strong force; he did believe so, and it was the truth. The contingency was not provided for by his orders. He was in a difficult and dangerous situation, and had nothing to guide him but his own judgment and military knowledge. These he used, as we now know, loyally and wisely. He remained on the defensive during the afternoon, with little molestation. His conduct thus far was neither "disobedient," nor "shameful."

But at night a new difficulty arose from the receipt of what is known as

The "4.30 P. M. Order."

The order reads as follows:

Head-quarters in the Field,
August 29, 1862, (4.30 P. M).

Your line of march brings you in on the enemy's right flank. I desire you to push forward into action at once on the enemy's flank, and if possible, on his rear, keeping your right in communication with General Reynolds. The enemy is massed in the woods in front of us, but can be shelled out as soon as you engage their flank. Keep heavy reserves, and use your batteries, keeping well closed to your right all the time. In case you are obliged to fall back, do so to your right and rear, so as to keep you in close communication with the right wing.

John Pope,
Major-General commanding.

Major-General Porter.

This order, even if it had been possible of execution at all, was not delivered to Porter until sundown, too late to execute it. Five witnesses of unimpeachable character, before the Court-martial, swore positively to this fact. The Court chose to believe the conjectures of Douglas Pope, in preference to the convincing testimony of the opposing witnesses. I will not characterize Captain Pope's testimony, or that of his orderly. It bears its refutation upon its face, and subsequent disclosures in the record, conclusively establish its character.

The flank and rear which Pope intended should be attacked, were of course Jackson's. But therein he added another to the many errors of that day. Porter's line of march did not bring him in upon the enemy's flank, either right or left. It brought him directly upon Longstreet's front, where 25,000 men were ready to receive him. Jackson's flank was three miles away from him, across an impracticable country, and the only way to reach it would have been either by a flank march along the whole length of Longstreet's line, or by the defeat of his overwhelming forces. This at sunset, with 10,000 men against 25,000, would have been a sufficiently serious undertaking.

The next mistake on the part of Pope, was the direction to Porter to keep his right in communication with Reynolds. The latter was at least two miles from Porter, with the same impassable country between them. Porter could not connect with Reynolds, and there was no flank or rear of any enemy that could be attacked. Longstreet outflanked Porter, and Jackson was too far off and too well defended.

On this point General Lee says: "Porter could not take Jackson in flank while he was attacked in front. He could do nothing of that sort * * * * We flanked him. He could not flank Jackson. I suppose *we should have cut Porter to pieces if he had attacked to get at Jackson's flank.*"

Porter was convicted for not attacking in front, under an order to attack in flank. The order was not received in time for any thing; but because the Court erroneously supposed that it was received in time to attack the enemy directly in front, it therefore concluded that Porter was guilty for not attacking an enemy three miles away in flank. By such contradictions did the Court seek to appease popular passion, and propitiate the Powers that be.

To have reached Jackson's flank as intended by the order, and prepared for action, would have required at least two hours, even if no enemy had been opposing. The whole order was a mistake, and Porter knew it then, as well as we know it now.

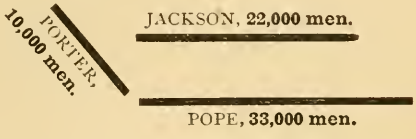
However, late as it was, he sent to Morell the order to attack, and himself rode to the front to direct the movement. All the officers there, who had been watching the enemy during the whole afternoon, Morell included, remonstrated against the attack. Even that gallant veteran, Colonel Marshall, who had risked his life that day by crawling close up to the rebel pickets who was wounded almost to death at Fredericksburg, who never flinched from an enemy whom he could see; even he, said that it would be certain destruction to attack, and he did not wish to go into that timber.

In view of all these circumstances, Porter very

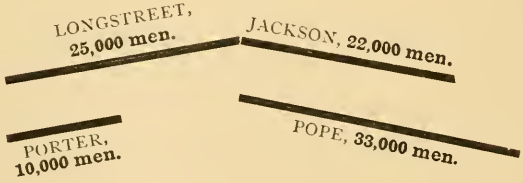
properly recalled the order. To have done otherwise would have been little better than useless murder. He would not have been justified in attacking even by daylight, with the knowledge that he had, which he knew his commander had not. The order was based upon premises wholly false. Pope still labored under the hallucination, which lasted far into the following day, that he was fighting Jackson alone, and that Jackson was anxious to retreat. Hence all his dispositions were erroneous.

The situation on the 29th of August may be represented approximately thus:

What Pope assumed it to be:*



What it actually was —



It will be seen at a glance how erroneous Pope's ideas were, how difficult was Porter's position, and how impossible of execution was the "4.30 Order."

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* As General Grant has never seen fit to give me any credit for these diagrams and several other parts of this article which he used in the *North American Review* for December, 1882, I am obliged to make the acknowledgment for him, in order to protect myself from the charge of plagiarizing what was actually my own work.—T. A. Lord.

It has been held by Pope, and by the Judge-Advocate of the Court-martial, that Porter should have attacked whatever force was in his front:—Pope says: "Whether there were 5,000 or 50,000 of the enemy;" even if "the whole Southern Confederacy was in front of him." And this to obey an order to attack in flank and rear a supposed small detachment already outnumbered! This proposition is hardly worthy of discussion. But for fear some one may be misled by it, I will give it a moment's consideration. Napoleon's maxim already quoted in regard to passive obedience, is the best guide in forming our judgment.

Where an officer receives an order from his commander who is personally present and cognizant of the situation, it is undoubtedly his duty to obey, however dangerous or even reckless or mistaken the undertaking may appear to him; for he cannot know but it may be a part of a general plan which requires his sacrifice for some great and compensating advantage. The same is true when the subordinate is at a distance, and the commander gives the order, with a full knowledge of the circumstances, or repeats it after he has received information of them. This last was the case with Hooker at Fredericksburg, and Porter on the 30th of August. Hooker was ordered by Burnside to make an attack which was ill-judged and hopeless. He left his command, sought Burnside, and remonstrated against such a desperate movement. The order was repeated, and Hooker attacked. He says with grim humor in speaking of the result: "Finding that I had lost as many men as my orders required me to lose, I suspended the attack."

On the 30th of August Pope believed the enemy

were in retreat. Porter and the other officers at the front knew better. They recaptured a Union soldier, who confirmed the report of a retreat. Porter sent him to Pope, remarking that he believed either that the soldier was a fool, or that he was released on purpose to create a wrong impression. The message came back: "General Pope believes that soldier, and directs you to attack." And Porter did attack splendidly, and was repulsed, and lost quite as many men as *his orders required him to lose.* Wherever it was possible for Pope to make a mistake he made one.

When it was Porter's duty to obey, he did not hesitate: but under the 4.30 Order there was no duty which he could fulfill. The order required an impossibility, and based the requirement upon two vital errors. It showed on its face that Pope had no accurate knowledge of the situation—that he was hopelessly mistaken. To declare that Porter should have uselessly sacrificed men under such circumstances, is simply monstrous.

Porter withdrew his forces as ordered, early in the morning of the 30th, and rejoined Pope near Groveton. We shall presently see whether his action on that day was disobedient or shameful.

The Animus.

An attempt was made to prejudice the mind of the Court-martial, and subsequently that of the President, by means which seem to the writer wholly unfair and improper. When Porter left General Burnside's command to join Pope, Burnside requested him to send information from time to time, of affairs at the front. This Porter did in a series of dispatches designed

merely for Burnside's personal perusal. The dispatches were mainly an account of military movements, and in that respect were unobjectionable. But there was an occasional sentence, written with the freedom which one friend would use in writing to another, which referred somewhat disrespectfully to Pope and his strategy. Here are the worst of those allusions:

"The strategy is magnificent, and tactics in the inverse proportion."

"It would seem from proper statements of the enemy, that he was wandering around loose; but I expect they know what they are doing, which is more than any one here or any where knows."

"All that talk about bagging Jackson, etc., was bosh. That enormous gap, Manassas, was left open, and the enemy jumped through; and the story of McDowell having cut off Longstreet, had no good foundation. * * * * I expect the next thing will be a raid on our rear by Longstreet, who was cut off."

Those passages certainly do not indicate any great depth of depravity. Burnside testified that he saw no harm in the dispatches, and he sent them to the President. Mr. Lincoln saw no harm in them, or if he did, he made himself a party to their wickedness, for he expressed himself *as glad to get them, and personally thanked Porter for them on the battle-field of Antietam.* He said they gave him the only true account of events that he could get at the time.

But when the prosecution could not make out a case against Porter by the evidence of his *acts*, they sought to eke out their scanty proof by alleged evidence of his *thoughts*. They used these dispatches, as Judge-Advocate Holt avowed, for the purpose of "determining

points *otherwise left doubtful by the evidence.*" In other words, when it could not be shown from the evidence, that Porter's acts were wrong, it was sought to prove that they must be so, because his thoughts were wrong. An erroneous idea of what he would be likely to do, was used as evidence to prove what he did. To such a ridiculous extent was this method carried, that Lieutenant-Colonel T. C. H. Smith testified, that he had never seen Porter before, but from his manner and tone, he (Smith) knew Porter would fail Pope. Smith was the great mind-reader for the prosecution. He further says that, but for fear of the law, he would have murdered Porter at that time, merely on account of his looks! That is some of the testimony by which Porter was convicted.

The attempt was made to prove that Porter's animus towards Pope was evil, therefore his whole conduct would be evil. Acts which would have been considered innocent and unavoidable in the case of another, were distorted into high crimes in the case of Porter, because forsooth, he did not speak reverently of Pope's ridiculous proclamation and futile strategy. Such a course of proceeding was wholly wrong both in principle and in fact. In principle, because, when the acts which a man did are the subject of inquiry, they cannot be proved by showing what he might be thought likely to do. It would be as reasonable to convict a man of murder, because he hated his enemy and therefore might be thought likely to wish him dead, when the sole question was—and it was a point left doubtful by the evidence—whether that enemy had been killed by anybody, or was dead at all.

The questions which the Court was investigating

were, not what did Porter think, and what action would such thoughts be likely to lead to; but, first, what did he do? and second, was that action reasonable and right under the circumstances? His opinion of Pope, or his feelings towards Pope, have nothing to do with the case, until it is NOT left doubtful by the evidence that he failed in his duty. No one pretends that he served Pope from love of him — few officers did. The sole question is, did he dutifully serve him? Did he fulfill his orders as it was reasonable to understand them, and as far as it was possible to execute them? If it is not evident that he did so, then I have not adequately set forth the true conclusions from the record. If he did so, then his motives or his thoughts are of no consequence.

The method of proof was wrong in fact, because the dispatches were represented to mean what they did not mean.

They do not express any wish for Pope to fail, much less any intention to betray him. They indicate a *fear* that he will fail; and that fear was abundantly warranted by the facts, and completely vindicated by the result. The whole trouble with the dispatches was, not that they were false, but that they were true. No intention to fail Pope can be properly inferred from them, even if they show contempt for him and his strategy. The case is very different from that of a quarrel between private persons, where only personal feelings and personal interests are involved. In this case great national interests were at stake, and far more important considerations than personal spite, would influence Porter's conduct. For Porter to fail Pope meant more than to gratify a personal resent-

ment. It meant to fail in conduct as a soldier; to forfeit the reputation of a lifetime of duty and of brilliant success; to give up the hope of future distinction and advancement. It meant to inhumanly sacrifice the lives of men, for whose welfare he was almost unduly solicitous; and finally, to imperil the safety of the Capital, and the existence of the nation for whose well-being he had received wounds in one war, and risked death in two. All this was the evident effect of failing Pope. Can it be supposed that Porter would risk all this, because he playfully reflected upon Pope's ridiculous strategy? Can it be supposed that, in consequence of a petty spite, for the remote chance of ruining Pope, he would endanger the Capital and take the imminent chance of ruining his country? And this, too, with the certainty that his honor, if not his life, would pay the penalty? There are many higher motives than love for Pope to induce an officer to do his duty, even under Pope's command. Therefore I say, that, until it is proved that Porter was out and out a traitor to his country, and lost to all sense not only of humanity but of self-interest, it cannot be argued that contempt for Pope would lead to a failure of duty under Pope. For this reason the use of expressions derogatory to Pope was improper for the purpose of proving acts hostile to the nation. It is preposterous to argue anything as to Porter's acts, from his dislike of Pope, until it is shown that all good motives and all self-interest were absent; or else that love for Pope is the highest and most potent influence that can "spring eternal in the human breast."

And further, we have no right to argue as to any motive to explain Porter's acts, until we prove beyond

a reasonable doubt that his acts were so faulty as to require such explanation. Not till then does the question of animus arise, to determine whether those acts were the result of willfulness or weakness. If what was required of him was impossible or unreasonable, what he thought of Pope does not affect the character of the requirement, or the action which should have been taken under the circumstances. Therefore, it was not proper to supplement the proof of points left doubtful by the evidence, by dispatches which could not in any way prove the facts claimed to be proved by them, even if they showed the animus claimed to be shown by them.

But the so-called evidence of animus availed to bridge all the gaps between the allegations and the proof. It was an operation of Porter's mind that could make possible a march in three hours, which was impossible in six; that could make the fact of a retreat, when there was no retreat; that could make a battle of great consequence, when there was no such battle; that could make an order to fight out of an order to retire; that could cause an order to be delivered at five o'clock, which was not delivered until seven; that could make Longstreet absent, when he was present; that could make possible an attack upon Jackson's flank, when the only possibility was an attack upon Longstreet's front; that could have insured the capture of Jackson's army, when Jackson ran no risk of capture. It is claiming a good deal to say, even from the evidence for the prosecution, that these points attained the respectability of being doubtful. Yet Porter's animus supplied all deficiencies. Other officers might be longer on the march, under fewer difficulties than

those which Porter overcame. *Their* conduct was energetic and exemplary. But it was Porter's animus that detained him, not the darkness nor the 2,000 wagons.

After all Porter's action, his "shameful disobedience" and "cowardice," and even the dreadful animus of these dispatches, were known to the Government, they still had so much faith in his capacity and integrity that they put him in command of 25,000 men, for the defense of the Capital which he had so "willfully" and "shamefully" endangered.

Pope himself, when he knew all about Porter's acts, told him that he was satisfied with them, except in one trivial and unimportant particular. But that was before he was aware of the animus. When he saw the criticisms upon his *strategy*, *his "eyes were opened."* Then he saw how heinous had been the conduct which he had before, with full knowledge, approved. He forthwith commenced that series of "indefensible and indecent" proceedings which culminated in the Court-martial.

Errors of the Court-martial.

The Court-martial which convicted Porter, has been very tenderly dealt with in the record of the Board of Officers; that is, if complete reversal of its opinions, and the exhibition of numerous errors which it committed, are consistent with tender treatment. The Board very truly say: "These charges and specifications certainly bear no discernible resemblance to the facts of the case as now established."

But in a critical study of the evidence presented to the Court, it is difficult to see how, with honesty and intelligence, it could have made so many mistakes.

It is to be regretted that the oath of secrecy prevents the disclosure of the vote by which its conclusions were reached. But for that, we might discriminate between the majority and the minority, if there was any such division. However, I should suppose that a member of the minority would be willing to bear his share of the odium, for the privilege of having cast his vote in protest against so great a wrong.

The Court derives no authority from its personality. It consisted of nine officers of high rank, it is true; but rank affords no sanction when acts are contrary to justice and common sense. "By their fruits ye shall know them," not by their rank. Besides, we have as much right to argue that the decision was reached by a bare majority, and was therefore virtually the opinion of one man, as an opponent would have to claim the authority of nine men.

In reviewing the testimony, it is impossible to understand the system upon which the Court estimated the credibility of witnesses, or the value of evidence. It seems as if every conjecture for the prosecution, by whomsoever advanced, outweighed every fact for the defense. The verdict was certainly not fairly derived from the evidence, and in some instances, as that of a retreat, was not derived from the evidence at all. It is necessary to look for some influence outside of the case to account for such strained conclusions. We need not seek for a cause, beyond the wild passions of the time, the popular belief that treason was rife and an example must be made, the clamor of the multitude, the same unthinking ferocity that, with the cry, "Crucify him, crucify him!" led even a Roman governor to deliver to the sacrifice an innocent victim.

But, besides this cause, there was, perhaps, a specific reason for the action of the Court-martial. That was the great desire, if not the great need of the Administration to secure a conviction.

General McClellan had been set aside by Stanton and Halleck, who were personally and politically hostile to him. General Pope was put in his place, and held out as the champion who was to show the world how wrong McClellan had been, and how wise was the cabal which had overthrown him. Pope had begun his campaign in the character of Bombastes Furioso. He had issued a proclamation which has ever since been a source of shame to his friends and delight to his enemies. The purposes of this proclamation were to fire the popular heart, and reflect upon McClellan. Therefore, when on the 2d of September, after Pope's dismal failure, the cabal was obliged to call McClellan again to the command, in order to save the Capital and the nation, the Administration was placed in an awkward and humiliating position. Something must be done to restore the reputation of the Government which had made such a grievous and ridiculous blunder as that which the appointment of Pope proved to be. The next elections might be fatal to the party in power, unless its agents could shift from themselves the responsibility for the late disasters. How could that be done better than by showing that Pope's defeat was due not to the incompetence of Pope himself, but to the negligence and insubordination of his officers? And how could a more conspicuous example be made than by selecting Fitz-John Porter as the victim? His conviction would exonerate Pope, save the Administration, punish McClellan indirectly, and terrify McClel-

lan's other friends. It was a large stake to play for, and it was won.

The members of the Court were appointed by General Halleck, one of the cabal, instead of by the good President, who was often the dupe of the cabal. If the Court did not do the bidding of its masters, then there is no intelligible reason for its false findings. Then the promotions of Judges and witnesses for the prosecution, which followed almost immediately after the conviction of Porter, are the most remarkable coincidences in history. If those promotions were not a return for value received from the verdict of the Court, the time when they were given indicates exceedingly bad taste on the part of the authorities.

Let us summarize the serious errors of the Court.

In respect to the events of the 29th of August, it decided against Porter, contrary not only to the preponderance of evidence, but contrary to all the competent and credible evidence upon every point. The conviction was principally based upon the testimony of four witnesses who confessedly swore only upon conjecture, as against the incontrovertible testimony of many witnesses who swore positively as to facts within their own knowledge.

The Court committed great error in regard,

1. To the position of Porter.
2. To the numbers and position of the enemy.
3. To the significance of the Joint Order.
4. To the time of the receipt of the "4.30 Order."
5. To the attack upon Jackson's flank and rear.
6. To the battle raging at the right.
7. To the retreat.

No witness for the prosecution pretended to have any ground but guess-work, upon which to base his idea of where Porter was, or where the enemy was. Even McDowell, who was with Porter for a time, placed him a mile in advance of his real position; and before the Board of Officers admitted his error. The other witnesses knew nothing of where he was, but supposed him to be about the place indicated by McDowell. The maps before the Court were wholly wrong.

2d. The Court ignored the presence of Longstreet, and even the significance of Buford's dispatch, and Buford's positive testimony as to what he actually saw.

3d. The Joint Order was interpreted as an order to fight, when it was really an order to halt and retire. This error doubtless arose from the supposed order by McDowell to fight, which impression was also an error.

4th. The error regarding the time of delivery of the "4.30 Order," arose from the worthless testimony of Captain Pope and his orderly; testimony which would not have received credit in a Police Court, in a case which involved the penalty of one dollar. Their testimony was conjectural, and they were directly contradicted by five unimpeachable witnesses. The admissions afterwards made by Captain Pope, in moments of confidence or weakness, that he lost his way, and did not arrive till late, sufficiently show the value of his testimony.

Before the Board of Officers, Major Randol corroborated the testimony of the five witnesses before the Court-martial, as to the arrival of Captain Pope about

dark. Further, the intrinsic evidence of dispatches produced before the Board shows that Captain Pope did not arrive with the 4.30 Order within an hour at least of the time when he swore he did. The members of the Court-martial ought never to have believed him at all. In that case they would have had fewer errors to repent of now.

Because the Court erroneously believed that the order was received in time to attack the enemy whom Porter claimed to be in front, they wrongly assumed that it was received in time for an attack upon Jackson's flank, three miles away.

5th. Ignoring the presence of Longstreet, and putting Porter a mile ahead of his true position, with no enemy in his front, produced the error in regard to the possibility of an attack upon Jackson's flank and rear; and because Porter did not attack overwhelming forces in front, the Court convicted him of not attacking weak forces in flank.

6th. The battle raging at the right was a myth and a sham. As we have seen, there was no such battle, and no severe action of great consequence requiring Porter's aid, at any time after Porter reached his position. Pope, without Porter, outnumbered Jackson, if Longstreet was not there, by fully 10,000 men, before McDowell's arrival on the field, and afterwards by 25,000. This shows the absurdity of the pretense, that Porter's aid was needed, because Pope was fighting "greatly superior numbers." He was scarcely fighting at all, and the numbers were far inferior, unless Longstreet was present, as Porter claimed.

Another absurdity closely connected with this, is the

statement that Jackson's capture would have resulted if Porter had done his duty. We can readily estimate the chances of Jackson's capture, under the *bagging* process as practiced by Pope. Jackson had been within five miles of Pope for nearly two days, and the latter knew no more of actual truth about him, than if he had been living in another planet. It was Pope's good luck, or rather the stubborn fighting of his troops, that alone prevented Jackson from capturing him.

7th. The Court found the fact of a shameful retreat, when there was no retreat whatever, and no evidence of any; and when in fact the evidence was positive that there was *no* retreat.

I think these errors are sufficient to invalidate the judgment of any court, no matter how respectable its members, or how high their rank. Most of the errors could easily have been avoided, and ought to have been avoided, when it is considered that in order to convict, guilt must be proved beyond a reasonable doubt. There was no one of the accusations against Porter, in respect to which his innocence was not proved beyond a reasonable doubt. We cannot escape the conclusion that the Court-martial was organized to convict, and its proceedings were a mockery of justice.

Many of the rulings of the Court were grossly erroneous and unfair. They were so consistently, so monotonously against the accused, that they would really be amusing, if their consequences had not been so serious.

The composition of the Court was not favorable to an impartial hearing. The law requires, that where a commander of an army prefers charges against an offi-

cer under his command, the Court shall be convened by the President. Pope first made the charges against Porter before a military commission. This being too manifestly illegal, the commission was dissolved, and this Court-martial was convened by General Halleck. Then the technicality was resorted to, of having the charges made by an officer of Pope's staff, instead of Pope himself. The law was not designed to permit any such miserable subterfuge as that, especially in a capital case. When it suited Pope's purposes to deny having anything to do with the charges, he did so; but at other times he claimed the merit of them, and confessed that he had asked the President for his reward.

Porter protested against the mode of convening the Court, but it is true he did not protest against any of the members:

1st. Because he felt so confident of the merits of his defense, that he thought it could not fail before any court.

2d. Because the order which convened the Court, told him, that "no other officers than these named, can be assembled without manifest injury to the service."

He had, therefore, no choice but to accept the Court as it was, and he would have been most unwise to have made complaint.

The Court should have consisted of thirteen members instead of nine, and the rank of all should have been as high as that of the defendant; whereas only two were of the proper rank. Despite General Halleck's certification that "no other officers than these named can be assembled without manifest injury to the service," he actually made one substitution, and offered

to make another. In fact, he could have found a full complement of officers, in numbers at least, if not in rank. Halleck's statement was merely another subterfuge, in order to get a court which would produce the desired result.

But we can afford to waive all narrow and technical considerations, and rest our unqualified condemnation of the Court-martial, upon the broad ground of its arbitrary and prejudiced proceedings, its erroneous inventions, and its inexcusably false conclusions.

Two members of the Court, Generals King and Ricketts, were concerned in the very movements which were in question, and both had made a retreat which has been mildly characterized as "uncalled for and unmilitary."* It would be supposed, considering the consequences of their retreat, that *their* conduct would have been inquired into before that of Porter. It was liable to inquiry at any time, unless some other victim should satisfy Pope, the Administration, and the public. I do not allege that those officers were influenced by that consideration, and for all we know they may have voted in Porter's favor; but, being human, although both were estimable men, they were not proper judges in Porter's case. One of them, King, descended from the bench to contradict an important witness for the defense, and then returned to his seat, presumably to estimate the value of the testimony; and that, too, when the accused person was on trial for his life.

The sentence imposed by the Court-martial was not commensurate with the offense. Porter was condemned "to be cashiered, and to be forever disqualified from holding any office of trust or profit under

*John C. Ropes. "The Army under Pope," page 81.

the Government of the United States." That was an infliction sufficiently severe, when applied to an innocent man; but if Porter was guilty, as the Court declared, he ought certainly to have been shot, or hung. A milder sentence for such heinous crimes, shows either that the decision was reached by a bare majority of the Judges, not enough for a death sentence, or else, that they were distrustful of their own verdict. There was certainly no mercy to be expected from them. While depriving Porter of reputation, rank and pay, they spared his life, as I believe, not from mercy, but from, perhaps, a consciousness that if he were ever vindicated, as he has recently been, a judicial robbery would be less awkward for all concerned than a judicial murder.

Lincoln's Approval.

We come now to the saddest part of this whole sad business, that which relates to President Lincoln's action. Lincoln was too just to have approved that sentence, if he had known the true character of the evidence. Not having time to read the voluminous reports of the trial, he requested Judge-Advocate-General Holt "to revise the proceedings of the Court-martial, * * * * and to report fully upon any legal questions that may have arisen in them, and upon the bearing of the testimony in reference to the charges and specifications exhibited against the accused, and upon which he was tried."

Lincoln wanted a full and fair statement of the case. Holt did not neglect his opportunity. He had declined to argue the case before the Court-martial; but, before Mr. Lincoln, the defense could make no reply. He

presented a review which pretended to be such as the President had asked for, but which, in reality, was an argument by an advocate for the prosecution, and a very unfair, mean and bitter argument at that. Mr. Lincoln fell into the trap, and, relying upon Holt's statements, approved the sentence of the Court. The great-hearted, just-minded, and confiding President was no match for the subtle and malicious schemers by whom he was surrounded. It is not too much to say that Lincoln's approval of that sentence was obtained by willfully false pretenses.

Mr. Lincoln probably continued to the day of his death in the belief that Porter had disgracefully retreated. The testimony before the Board of Officers, of the President's son, Mr. Robert T. Lincoln, gives us good reason for believing that this one so-called fact of a retreat, which was really the only *fact* that had not a particle of evidence, good or bad, to sustain it, was a potent cause, if not the chief cause, of the President's approval.

The President afterwards expressed his willingness to give the case a rehearing, and his hope for Porter's vindication. He met his tragic death before Porter's appeal was fully prepared. The great and good Lincoln, had he lived and learned the truth, would have been swift to undo the cruel injustice which he had been deceived into doing, and to rebuke the wickedness which led to it.

Porter's Conduct, August 30th.

No estimate of Porter's conduct is complete without a consideration of his services on the 30th of August, the day following his alleged shameful behav-

ior. His motives all through these events were called in question before the Court-martial, and he was not allowed to introduce evidence of his conduct on the 30th, to show the falsehood of the accusation. There was an additional specification under the second general charge, alleging Porter's misconduct and feebleness in attack on that day. Now it happened that his action was particularly gallant and efficient that day, and he could prove it so. Such proof would go far to refute the charge of indifference and insubordination, that is, the evil animus, on which the Government especially relied to make out its case. The Judge-Advocate promptly dismissed the accusation, at the opening of the Court; and consequently the accused was not permitted to introduce evidence of his good conduct on that day, to offset the alleged proofs of evil intent derived from previous days. If that result was in contemplation of the Judge-Advocate when he dismissed the accusation, such action, even in so eminent a politician as Colonel Holt, was but little above a very low degree of pettifogging.

It is not credible that an officer whose whole life had been brilliant and honorable, should be a poltroon one day and a hero the next, simply because he did not like General Pope. Such an emotion would not produce conduct so eccentric.

Porter's noble service on the 30th of August, has been appropriated by Pope to himself on the 29th. The latter published Jackson's report of operations on the 30th, which included Porter's attack, under the representation that it applied to the attacks of the 29th, under Pope's direction. In other words, by a transposition of dates, he used Porter's own gallantry

and energy, to which his antagonist bore witness, as a means of proving Porter guilty of cowardice and inefficiency. Pope's attention has often been called to the error, but I have not heard that he has yet endeavored to correct it.

On the afternoon of the 30th of August, Porter's command led the hopeless and ill-judged attack upon Jackson's lines. The assault was described by rebel officers, as "determined and most obstinate." Jackson said it was impetuous and well sustained; it engaged his entire line in a fierce and sanguinary struggle, and so "severely pressed" him, that he sent to Lee for re-enforcements. Porter's command lost over 2,100 men, out of 6,000 present. So much for the disloyalty and lack of bravery of an officer who had won most honorable mention in the Army of the Potomac, for skill and gallantry; who had borne the brunt of the attack at Malvern Hill, and received for his services the commissions of Brevet Brigadier-General in the regular army, and Major-General of volunteers; who was brevetted as Captain and Major for services in the Mexican War, and was wounded in the assault on the City of Mexico.

The truth is, Pope was beaten by his own mismanagement. His ideas and the disposition of his forces, were (with one transient exception), so thoroughly erroneous, and he showed such a capacity for refusing to accept correct information from persons or events, that disaster was inevitable. "What he should not have done he did with frightful energy, and what he should have done he culpably neglected to do." * Lee

* Gordon's "Army of Virginia," page 462.

himself was surprised. He expected nothing from Jackson's movement, but a formidable raid to save Gordonsville, and he "moved from victory to victory," until he seriously menaced the Capital, and began an invasion of the North.*

It was not through any fault of officers or soldiers that Pope was beaten. Officers served him as well as they could, whatever they thought of him; and—

> "'Tho' the soldier knew
> Some one had blunder'd,"

he did not fail or falter in bravery or fidelity. The toilsome marches by day and night, the privations endured,—for the army was in a condition little short of actual starvation,—and above all, as Porter said, the "killed and wounded and enfeebled troops attest *their* devotion to duty."

One needs to consider only the methods of the commander as applied to the existing conditions, his faculty of painting everything (even his reports), with the colors of the imagination, to find ample explanation of his failure. Porter, who deserved as well of the Republic as did any officer in the army, has been for twenty years the chief sufferer for Pope's misstatements and mistakes. It now remains for the people, through their representatives in Congress, to right the grievous wrong inflicted upon one who, in two wars, served his country faithfully and gallantly.

As the case stands to-day, Porter is fully vindicated by the highest military authorities of this and other nations; by the most eminent statesmen and

* Gordon's "Army of Virginia," page 463.

jurists in the land; and by all intelligent and fair-minded men who know the facts. He can afford to remain, like Belisarius, in silence and in poverty, intrusting to History his bright achievements and unsullied fame.

But the Government cannot safely leave its repute to History, if, after having before it overwhelming evidence of the terrible wrong inflicted upon a faithful servant, it delays for one unnecessary hour, the inadequate reparation which can yet be made.

THE END.

A SUMMARY

OF

THE CASE OF

GENERAL FITZ-JOHN PORTER,

BY

THEODORE A. LORD.