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THE BURGOYNE CAMPAIGN FROM OCTOBER 8 - OCTOBER 16, 1777

by

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Introduction This report represents a collection of source materials dealing with the main events that attended the retreat from the Saratoga Battlefield, the siege at Saratoga, and the negotiation of the terms of Burgoyne's surrender. The purpose of the study is two-fold: to round out the documentary account of the campaign and to provide information useful in the dissemination of interpretive services.

Burgoyne Retreats

Burgoyne had proclaimed during the advance southward that "this army does not retreat." While it is easy to set this down as an example of Burgoyne's bombastic rhetoric, fairness to the British commander requires that one recognize that a radical change had taken place in what later military men would have termed the "strategic situation."

The loss of the Breymann Redoubt on the evening of October 7 had exposed the right of the British fortified camp to an infilade fire that made the position untenable. His forces, outnumbered and physically exhausted, his supplies depleted, and his hopes of assistance from Sir Henry Clinton having more basis in desperation than assurance, Burgoyne ordered his battered army to withdraw to the left of their fortified line. Here, under the protection of the Great Redoubt, the Royal Army spent

October 8, preparing to retreat.¹

At dusk, on the 8th, Brigadier Simon Fraser, who had died that morning, was buried in the Great Redoubt.²

During the first week of October, Gates had ordered the posting of militia on the east bank of the Hudson River, in Burgoyne's rear, in order to block a retreat. Stark and his New Hampshiremen reappeared, captured the small British garrison at Fort Edward, and moved down the river toward Saratoga.³

After the capture of Fort Edward, an entrenched camp was constructed on high ground north of the old fort, covering the road to Fort George. This camp was garrisoned by about two thousand New Hampshire militia under Brigadier General Jacob Bayley.

In the meantime, Brigadier General John Fellows, commanding approximately thirteen hundred Berkshire County, Massachusetts militia, was ordered to move northward up the east side of the Hudson to the Battenkill, to cross the river, and to entrench on the west side at Saratoga.⁴ While this force would not have been large enough to have stopped Burgoyne if he should retreat, Gates could either reinforce Fellows or follow Burgoyne so closely that the latter would not be free to deal with Fellows.

After Fraser's burial, the Royal Army began to prepare for the retreat northward. The column was organized as follows: Alexander Fraser's company of riflemen, accompanied by the few Indians who remained, and the Loyalist parties; the Germans; the 9th Regiment of Foot; the 47th Regiment; the heavy artillery and wagons; and the

remaining British regiments. Fraser's advanced corps, now commanded by Alexander Lindsay, Earl of Balcarres, functioned as the rear guard.

Alexander Fraser's riflemen marched at 9:00; Riedesel's corps moved at 10:00. Balcarres' command moved at 11:00, but the last of the units did not leave the encampment until nearly 4:00 a. m. on the 9th of October.⁵

Baron von Riedesel reported the following concerning the beginning of the retreat:

Die Nacht vom 8ten zum 9ten brachen wir wirklich auf. Ich sollte mit 4 Batallions die Avantgarde machen, die Bagage auf mich folgen, alsdann die Armee und Arriergarde. So wie ich an Overgotta Haus kam, sahe ich dass der Feind die Hohe bei Saratoga besetzt hatte, welche er aber verliess, und sich über den Hudson hinter den Battenkill setzte. Hier was es noch Zeit durchzukommen. Hatten wir unsern Marsch continuirt mit Hintenansetzung der schweren Artilleries, Batteaux und der Bagage; allein so machten wir zu Overbotta Haus Halt, und blieben gegen meine Vorstellung stehen.

Translation

On the night of the 8th to the 9th we actually started, I was supposed to make the advanced guard with 4 battalions, the baggage following me, then the army and rear guard. Thus as I came to Overgotta [Dovegat] House, I saw that the enemy had occupied the heights at Saratoga, which, however, he left, and placed himself across the Hudson behind the Batten Kill. Here there was still time to get through, if we had continued our march leaving behind the heavy artillery, batteaux, and baggage; but we stopped at Overgotta House and remained there despite my pleas.⁶

The Baron's wife recorded:

... Before the break of day on the morning of the 8th, we left our position and drew off into the valley where our supplies were. We were obliged, to stop over a day, as our hospital could not be sooner transported. In the evening we set out on our retreat, and General Riedesel was placed in command of the vanguard, with instructions to cross the Hudson and

post himself behind the Batten Kill. But scarcely had he arrived at Dovegat, when he received orders to halt.⁷

Burgoyne, in his account of the campaign, recalled:

. . . A defeated army was to retreat from the enemy flushed with success, much superior in front, and occupying strong posts in the country behind. We were equally liable upon that march to be attacked in front, in flank, or rear. The disposition of march had been concerted as much as circumstances would admit; and it was executed by the officers and the troops in general with a precision that experience in critical situations can only teach. The baggage, which could only move in one column, and in a narrow road, fell into the confusion which it is impossible for caution to guard against in the dark, because a single accident of an overturn or a broken wheel, or even the stupidity or drunkenness of a driver, may stop and often confuse the motion of the whole line. Care was taken that no such accident should break the order of the troops, and orders were sent to Major General Phillips, who commanded the rear guard, in case he was attacked, to pay attention only to the main object of governing the troops; or, in occasion were, of taking a position to give them time to form.

At day-break the next morning [Oct. 9] the army had reached very advantageous ground [Dovegat] and took a position in which it would have been very desirable to receive the enemy. A halt was necessary to refresh the troops, and to give time for the bateaux, loaded with provisions, which had not been able to keep pace with the troops, to come a-breast. A portion of provisions was delivered might be the last: for there were parts of the river in which the boats might be attacked from the other side to great advantage, notwithstanding the correspondent movement of the army.

The above purposes being effected, the army proceeded in very severe weather, and through exceeding bad roads.⁸

Sometime after the retreat got under way, Colonel Sutherland returned from a reconnaissance of Fellows' position at Saratoga. He reported a successful scout and urged Burgoyne to permit him to take his regiment, the 47th, and surprise Fellows, whose external security

had been temptingly lax. Burgoyne refused to give his permission because of the danger from the loss of control. While some writers have criticised the general for losing an opportunity to dislodge the Americans at Saratoga, there was a sound reason for his refusal. A successful retreat in column depended upon absolute control, and the detachment of an entire regiment to act without concert or support from the main body of troops would jeopardize, if not negate, such control. Then too, while Fellows' militia had been lax, as militia usually were, in security, the 17th Regiment could muster only about two hundred fifty men fit for duty, as opposed to Fellows' thirteen hundred - in a prepared position. The odds were too great.⁹

As was noted in the above quoted accounts, the army halted at Dovegat [Coveville], about four miles from the British encampment. At this point, the road, for the first time, left the river flats and cut across a gently sloping section of higher ground. To the Baron's disgust, Burgoyne ordered a halt in order to secure communications with the bateaux.

In this matter, as in nearly every move that the British commander made, Burgoyne had been severely criticised. According to his critics, he should have pushed on, without concern for his baggage. However, it is difficult to imagine how the retreating army could have been expected to effect the escape without taking its supplies. The country north of Fort Edward was so sparsely settled and cultivated that it could not have supported a fraction of an army under favorable conditions; and two armies had marched over it within less than three months.

In mid-morning of the 9th, the column got under way again, and through a sea of mud moved slowly northward, so slowly that the rear guard did not reach the village of Saratoga until after nightfall, and the artillery did not cross the Fishkill until the morning of the 10th.

Upon Burgoyne's approach, Fellows fell back across the river and entrenched along the crest of the eastern hills of the valley.

While Burgoyne was struggling northward, Gates army was engaged in drawing and cooking rations, drawing ammunition, and preparing to pursue the Royal Army. Gates has been rather roughly handled for the apparent leisure of his pursuit of Burgoyne. In assessing his aggressiveness, it is necessary to recall that he, like Burgoyne, had some problems. His best troops, the Continental regiments, had been heavily engaged and were as tired as their European counterparts. The militia did not lend itself to rapid and orderly movements. The army had to be provisioned for a march; and the wretchedness of the weather was surpassed only by the condition of the road. Gates did have parties operating on the British left flank, but rapid movement was equally impossible for both armies.¹¹

It was not until about 4:00 on the afternoon of the 10th that the American advanced guard reached the Fish Kill and discovered the British encamped on the heights beyond the creek.¹²

Major Ebenezer Stevens, commander of Gates' artillery, immediately placed several pieces of artillery in position on the flood plain near the junction of the creek and the river and opened fire on the bateaux and working parties attending their unloading.

The Siege

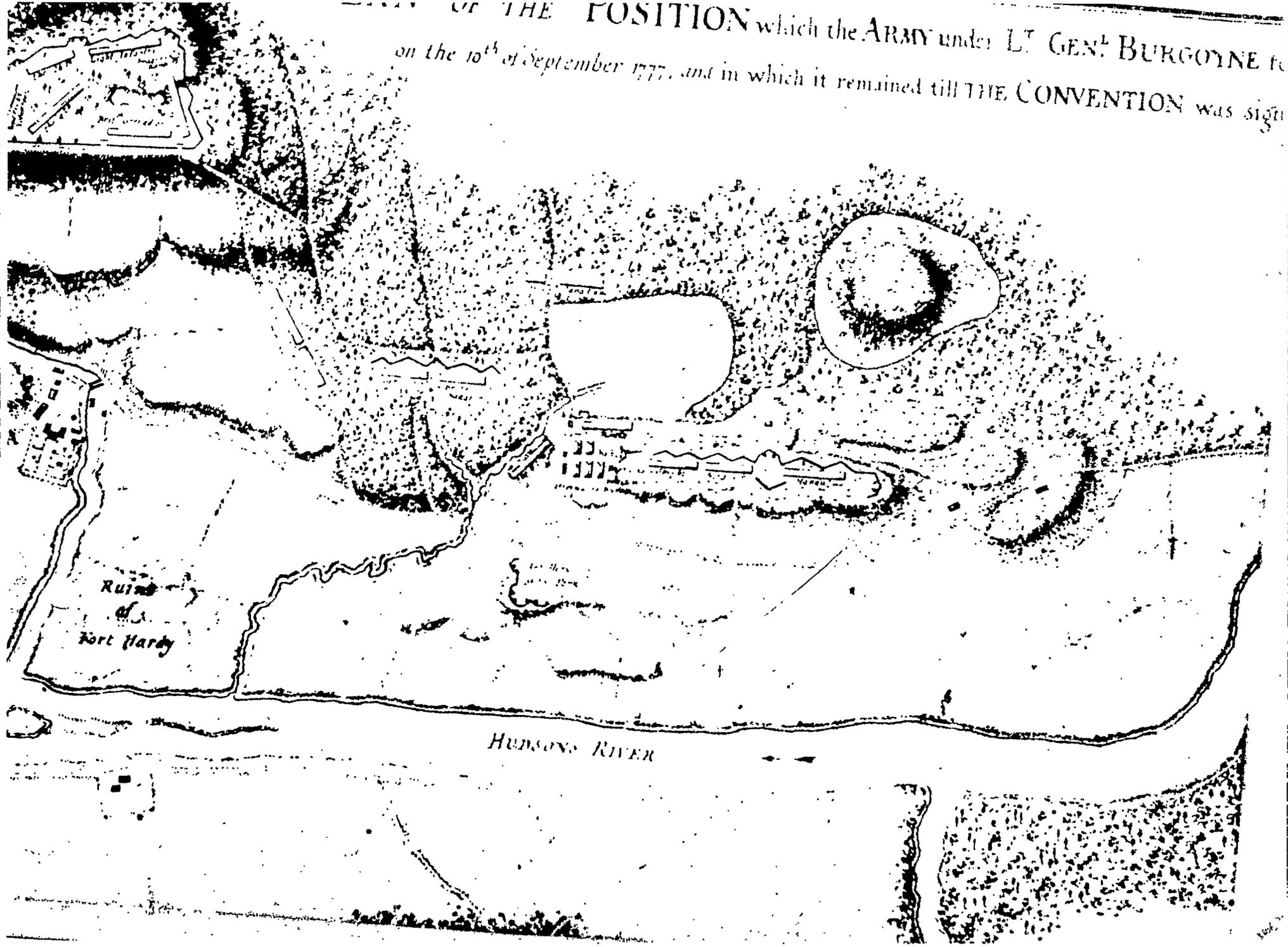
The British position on the high ground north of the creek would have been a strong one, had the opposing forces been of equal strength. Just north of the stream a ridge, which stretches away to the northward, breaks sharply on the east and south banks of the Fish Kill, flattening into a plateau toward the west. Breastworks were thrown up and this position was occupied by the British Grenadiers, facing eastward; the Loyalists, facing southward; the 9th Regiment, supporting the artillery, placed at right angles between the two former units. The 24th Regiment, on the left flank of the Loyalists, faced west. The Light Infantry prolonged the main line of defense northward. Next lay Fraser's Rangers; and the northern extremity of the line was manned by the 21st Regiment. Artillery was posted between the aforementioned regiments.

The 20th Regiment and six companies of the 17th were stationed on a ridge immediately north of the Fish Kill, while the German troops extended the line northward to a point nearly opposite the mouth of the Battenkill, in the following order: Grenadiers, Barner's Battalion, Specht, Riedesel, and Hesse-Hanau. The Yagers and Canadians took post on the western slope of the ridge, opposite the center of the German line. The reserve artillery was posted on the eastern side of the road, supported by the ¹⁰26th Regiment. ¹³

On October 10, the buildings of General Philip Schuyler's estate were burned to prevent the Americans from taking advantage of the cover that they afforded. ¹⁴

On the night of the 10th, Gates issued orders for the army to advance on the heights at revaille on the 11th. Morgan was to advance along a hill to the left of the main body, which would move along the

... OF THE POSITION which the ARMY under LT GEN^L BURGOYNE took
on the 10th of September 1777, and in which it remained till THE CONVENTION was signed



the road, parallel to the river.¹⁵ According to Wilkinson, he warned the commander that he was exposing his army to the enemy, who occupied a strong position. Gates expressed the opinion that the British had retreated, leaving only a strong rear guard. However, he gave Wilkinson permission to reconnoiter the area on the following morning.

Before Wilkinson could report the results of his patrol, Morgan crossed the creek, proceeding cautiously forward through a heavy fog, when he was fired upon by a British picket. Convinced that the enemy had not moved, but was in full strength, Morgan wished to change his position, but hesitated because he was not familiar with the ground. Wilkinson reported the situation to Gates and received orders to have Morgan supported by the brigades of Learned and Paterson.¹⁶

In the meantime, Nixon's and Glover's brigades were crossing the creek at a point nearer to its mouth. Shortly after Nixon's brigade crossed the stream, a deserter was brought in and reported that the British were in force on the brigade's front. Nixon halted and, suddenly, the fog lifted, revealing the enemy in position and under arms. The latter opened fire, with artillery and small arms; and Nixon's brigade fell back across the creek in disorder.¹⁷

Learned's brigade had crossed the stream approximately three quarters of a mile left of Nixon's and almost directly in front of the strongest portion of the British position. Wilkinson says that he dashed to that sector and directed Learned to withdraw. At first, the General refused on the basis of a standing order issued the previous day, directing: "That in case of an attack against any point, whether front, flank, or rear, the troops are to fall on

the enemy at all quarters." Believing that Nixon and Paterson were engaged, he felt obliged to attack. Wilkinson assured Learned that the other two brigades had retired, and Learned consented to fall back.¹⁸ While retiring the Americans were fired upon, and an officer and several enlisted men were killed.

Learned's and Paterson's brigades fell back about a mile and took up a strong position, which they entrenched. Morgan's corps flanked the British right; and the brigades of Nixon and Glover occupied the ridge that rises to the west of the river road.¹⁹

Meanwhile, on the 10th, Burgoyne had detailed a detachment of artificers with a strong escort consisting of the 47th Regiment, Fraser's Rangers, and a party of Provincials, under Lieutenant Colonel Sutherland to repair the route to Fort Edward that lay on the west side of the river. These were recalled, apparently, in anticipation of a concerted movement against the Americans based upon vague news of Clinton's movements. Baron von Riedesel's account of that detachment reads:

. . . Noch den 10ten sandten wir den Oberstlieut. Sutherland um den Weg diesseits Fort Eduard zu recognosciren, and solche durch den Capitain Twiss repariren zu lassen, bloss mit der Infanterie sich durchzuschlagen: er kam auch bis 3 eng. Meilen diesseits Fort Eduard, do wo die Passage mit Fussvolk uber den Fluss geht, und fand wenigen Widerstand. Vague Nachrichten vom Anrucken des General Clinton, oder sonstige Ursachen anderten unsern Vorsatz, und der Oberstlieut. Sutherland wurde sowohl zuruck berufen, als der Reparatur der Brucken contramandirt.

Translation

. . . On the 10th we sent Colonel Sutherland to reconnoiter around the road this side of Fort Edward, and to have it repaired by Captain Twiss, in order to cut a way through with the infantry: he got to within 3 English miles this side of Fort Edward with the infantry to where the passage goes over the river and found little resistance. Vague news of the approach of General Clinton of other reasons, changed our

plans, and Colonel Sutherland was called back, when the repair of the bridges was countermanded.²⁰

Burgoyne's supply problem, already acute, was rendered more so through the loss of bateaux and the provisions that they carried.²¹

At this point, Burgoyne received a proposal from Riedesel that an effort be made to "cut our way through from behind, and in case we could not cross the Hudson at Fort Edward, to cross it 4 miles below, where there is another ford, although it is much more dangerous. It was agreed that we should march out at 10 o'clock in the evening, but again this order was countermanded."²²

The Americans were making excellent use of the captured bateaux - transporting troops across the river and reinforcing the outposts on the road to Fort George.

At the same time, Gates' army was growing steadily larger, with the arrival of additional militia. General Bayley, at Fort Edward, wrote to General Fellows that his force consisted of 11,955 men. However, these reinforcements were limited in value because they came to the army poorly equipped, placing a strain on its supplies. Their usefulness, under any circumstances, is difficult to assess. While they increased the size of the force available to Gates, they really contributed very little to the total military operations.

Conditions within the British encampment became worse with each day's passage. The Baroness von Riedesel gives an account of conditions, perhaps somewhat dramatized and reflecting her dislike for Burgoyne, that probably provides a useful picture of the conditions that prevailed:

. . . The greatest misery and the utmost disorder prevailed in the army. The commissaries had forgotten to distribute provisions among the troops. There were cattle enough, but not one had been killed. More than thirty officers came to me, who could endure hunger no longer. I had coffee and tea made for them, and divided among them all the provisions with which my carriage was constantly filled; for we had a cook who, although an arrant knave, was fruitful in all expedients, and often in the night crossed small rivers, in order to steal from the country people, sheep, poultry, and pigs. He would then charge us a high price for them - a circumstance, however, that we only learned a long time afterward. At last my provisions were exhausted, and in despair at not being able to be of any further help, I called to me Adjutant General Patterson who happened at that moment to be passing by, and said to him passionately: "Come and see for yourself these officers, who have been wounded in the common cause, and who now are in want of everything, because they do not receive that which is due them. It is, therefore, your duty to make a representation to the general." At this he was deeply moved, and the result was, that, a quarter of an hour afterward, General Burycyns came to me himself and thanked me very pathetically for having reminded him of his duty. He added, moreover, that a general was much to be pitied when he was not properly served nor his commands obeyed. I replied, that I begged his pardon for having meddled with things which, I well knew, a woman had no business with, but that it was impossible to keep silent, when I saw so many brave men in want of everything, and had nothing more to give them.²³

The Baroness went on to describe, in detail, the privations that attended the siege, nothing shortages of food and water and recounting the constant fire to which they were subjected.²⁴

Concerning the same period, Amburey wrote:

. . .and after the action of the 6th, never had a tent to shelter them from the heavy and almost incessant rains that fell from that time till the convention, without the refreshment of spirits during this period; and after our arrival at Saratoga, debarred of that very essential to the health and convenience of troops, water, although close to a fine rivulet, it being at the hazard of life, in the day time, to get any, from the number of riflemen the enemy had posted in trees, and at night the men were prevented, as they were sure to be taken prisoners, if they attempted it. All the water that the army was supplied with was from a muddy spring, and what they could get out of the holes the cattle made with their feet; by want of luxury, and render their provisions more palatable, when it rained hard, the

~~men~~ men used to catch it in their caps, to mix with their flour.

Officers in general found the same as the soldiers, most of them young campagners, and not so provident of their liquors, relying upon a fresh supply that was following the army. This was the only time in life I found money of little use; how deceived we are in our opinion, that it constitutes all our happiness! - I was not the only one who, when drenching wet and shivering with cold, would have given a guinea for a glass of any spirit.

One day I thought fortune had pointed me out as one of her favorites, for my servant came and informed me he had met with a woman who had half a pint of New England rum to dispose of, but she would not part with it under a guinea. I hastened him back for it, lest any one should offer the woman more, which I was sensible would be the case, if known. I would myself have given treble for half the quantity, being apprehensive of an ague, from being continually in wet cloaths, and exposed day and night to all weathers. You will not accuse me of churlish disposition, but when I obtained the rum, necessity, contrary to inclination, rendered me so.²⁵

Buryoyns described the conditions at the arrival at Saratoga in the following:

I now return to the army, which arrived in the night at Saratoga, in such a state of fatigue, that the men for the most part had not strength or inclination cut wood and make fires, but rather sought sleep in their wet cloaths upon wet ground under the continuing rain, and it was not till after day-light that the artillery and the last of the troops passed the Fish - Kill, and took a position upon the heights and in redoubts formerly constructed.²⁶

Lord Harrington testified before the Commons concerning conditions during the period preceding the Convention in these words, "The state of our army was certainly as bad as possible. Their numbers were few, their provisions short, and their positions not a good one, . . ."²⁷

Even after allowing for possible exaggerations, the account of the participants provide clear evidence that the Royal Army's situation was nothing short of desperate. Rations were approaching exhaustion, the Americans were subjugating the besieged to constant

fire, the numerical imbalance was increasing daily in favor of the Americans, hopes for reinforcements were fading, and hints of winter were apparent in the cold nights and frosty mornings.

By the 12th conditions had reached a point described by von Riedesel as follows:

Den 12ten etablirte der Feind eine Posten der jenseit eines Marastes auf dem Weg der diesseit des Hudsonflusses ist, dass also nicht der geringste Weg zur Retraite übrig blieb, Da nun unsere Situation so critisch wurde, die Armee nur noch 5 Tage Provision hatte, die Pferde in der Arme so liess der General Bourgoyne den 13ten Kriegs Rath von allen Commandeurs zusammernrufen, und legte ihnen den Zustand der Armee dergestalt vor: dass unsere nun bis auf 3500 Combattenten geschmolzene Armee von 14 bis 16000 Mann umringt sie, eine andere Armee von 2 bis 3000 Mann alle die Quartiere besetzt hatte, wo unsere Armee den Husons Fluss passiren konnte, auch von der Ankunft des Gen. Clinton nichts anderes für unsere Armee offen stande, als:

- 1) den Feind in einer ungluck advantageusern Position wie die unsrige zu attaquiren, dennoch aber, und wenn wir ihn schlugen, aus Mangel an Provision, Fort George nicht konnten.
- 2) So lange wir es konnten in unseren fehlerhaften Position stehen zu bleiben, und wenn wir ausgehungert waren, uns auf Discretion zu ergeben.
- 3) Auf convenable Terminos zu capitulieren, oder
- 4) zu erlauben, dass ein jeder so gut wie er konnte seinen Weg, durch das Holz nehmen solle, um nach Fort George zu kommen, welches ein möglicher Fall für Wilde, aber nicht Soldaten ware.

Dad fast unaine Resultat aller englishen und deutschen Stab - Officers ging da hinaus, wenn der General Bourgoyne glaubte eine Möglichkeit den Feind mit Success anzureifen, sie gern ihr Leib und Leben aufgeopfern wollten, eine Retraite aber durch das Holz hont Web zu bewerkstelligen, von 60 bis 70 Meillen lang, ware ein unschldiges Sacrifice und hart eine ganze Armee zu verlieren, und da die Armee nur effective für 4 Tage Provision hatte, so ware, im Fall der Feind nicht zu attaquiren stande, eher auf ein Accomodement und honorable Capitalation zu denken, welche alleweil shere zu bewerkstelligen stande, als den Tage, wenn wir aus ganzlichen Mangel von

Provision uns auf Discretion ergeben mussten. Aus reifen Ueberlegung und um die Truppen und Unterthanen Ew. Hochfurstlichen Durchlaucht nicht ganzlich zu sacrificiren, bin ich diesem Asspruch selbst beigetreten, und zwar aus folgenden Grunden:

Hatten wir auch den Feind attaquiren konnen, hatten wir solchen auch geschlagen, so hatten wir doch nicht Lebensmittel genug, im nach Fort George zu kommen, wie auch, da alle Pferde auf das ausserste ausgehungert waren, so mussten wir doch Artillerie und Equipage stehen lassen. Wurde unsere Armee geschlagen, welches wegen der Schwache, des Terrains und dessen ungluckliche Lage, wegen dem sehr gefallenen Esprit der Soldaten dher zu vermuthen war, so waren all Leute sacrificirt. Der Konig victorirte eine Armee von 3500 Mann und Ew. Hochfurstliche Durchlaucht Dero brave Unterthanen.

Stehen zu bleiben und den Feind zu erwarten war deswegen nicht rathsam, weil der Feind uns doch nicht attaquiren wurde, sondern den Tag wenn wir den Letzten Bissen essen Thaten, uns auf Discretion gefangen nehmen konnte, und gesetzt auch dass der Feind uns attaquirte, so ware unsere Position so fehlerhaft, dass das Corps vom General Bourgoyne von dem wenigen sogleich separirt, und eine General Deroute da ware. Eine Retraite am Ufer des Hudsons, wo alle Pässe mit Artillerie versehen waren, und das kleine Gewehrfeuer hinreichten was ein blossen Gadanke, durch die grossen Holzen an hazard sich einzeln durchzuschlagen, war bloss eine Idee, und sacrificirte das ganze Corps, absonderlich die Braunschweiger, welche nicht gemacht sind sich im Holz ohne Weg zu routinieren. Alle diese Ursachen, und da ich den Fall nicht fur den bei Maxen hielt, wo der General Finck vom Konig in 24 Stunden secourirt werden konnte, sondern fur den bei Pirna, wo die Sachsen aus Mangel an Lebensmittel zu capituliren gezwungen waren, so hielt nicht allein eine honorable Capitalation fur umachheilich, sondern fur northig, wenigstens die Truppen dem Konig zu retten. In meiner Situation heilt ich mich doppelt berichtigt, aus Interesse fur Ew. Hochfurst. Durchlaucht so zu spruchen.

Die Generals Bourgoyne und Philips sahen selbst kein anderes Mittel moglich, als eine gute Captiulation zu treffen, und wurde beschlossen, einen Tambour nach dem Feind zu senden, den folgenden Tag aber einen Stabs-Officier hinuber zu schicken, und wirdgen die zu proponirenden Articles entworfen. Befor wir aber auseinander gingen, bat ich den General Bourgoyne in Gegenwart aller Stabs-Officers zu declariren dass er mir niemals seine Plane entdeckt, meine

Setiments gefragt, oder ich an all den vorgefallenen Evenements den geringstens Theil hatte, welches er nicht allein bejahte, sondern auch declarirte, dass all Evenements die sich ereignen hatten, bis ino (?) der Situation, in welche er sich jetzt befande, bloss auf seine, eigene Verantwortung, und auf keines andern kame.

Translation

Note: The original German text of the Baron's letter to the Duke of Brunswick has been reproduced at length because it is in an 18th century idiomatic prose, the accurate translation of which is of some importance, and should be reviewed for accuracy by those reviewing this report. This portion of the letter has been quoted at length because it supplies what is probably one of the best evaluations of the military situation. The perspective also reflects an effort on the part of the Baron to clear himself of any responsibility for the debacle and to show what he might have done, if he had been in command.

On the 12th the enemy established a post which is on the other side of a swamp on the road which is on this west side of the Hudson River, so that not the smallest way remained open for a retreat. As our situation became so critical, the army had only 5 days' provisions, there were so many dead horses that one could not stand the smell. General Burgoyne had a council of war of all commanders called on the 13th, and presented to them the state of the army in this way:

That the army, reduced to 3500 combatants, was surrounded by 14 to 16,000 men, another army of from 2 to 3,000 men had occupied all of the places where our army could cross the Hudson River, likewise nothing certain had been learned about the arrival of General Clinton, so nothing else remained open for our army to do but:

- 1) to attack the enemy in a much more advantageous position than our present one, but however, even if we could beat him, for want of provisions, we could not reach Fort George.
- 2) to remain as long as we could in our faulty position, and when we ran out of food to surrender ourselves at discretion.
- 3) to capitulate on suitable terms, or
- 4) to permit each one to make his own way through the woods as well as he could to get to Fort George, which was possible for wild animals, but not for soldiers.

The almost unanimous opinion of all English and German Staff officers was that, if General Burgoyne believed there was a possibility of attacking the enemy with success, they were willing to sacrifice life and limb. However, to effect a retreat of from 60 to 70 miles through pathless woods and to lose cruelly an entire army would be sheer sacrifice, as the army would have only enough for 4 days, so in case the enemy did not intend to attack, it would be better to think about an adjustment and honorable capitulation while it was still possible to consider the day

when we had to surrender ourselves at discretion because of complete lack of provisions. After mature deliberation, and in order not to sacrifice completely the troops and subjects of your Serene Highness, I agreed to this opinion, and for the following reasons:

If we had been able to attack the enemy, we might have beaten him, but we did not have food enough to get to Fort George, and as also all of the horses were starved to the extreme, we would have to leave the artillery and baggage. If our army had been beaten, which was expected, on account of its weakness, the terrain and its unfortunate position, and on account of the very much fallen spirits of the soldiers, all of men would have been sacrificed. The king would lose an army of 3500 men and your Royal Highness your brave subjects.

Remaining and awaiting the enemy was on account of this, not advisable because the enemy would not attack us, but could pick the very day when we had eaten the last mouthful and take us prisoners at discretion, and it was certain also that if the enemy attacked us our positions would be so defective that the corps of General Burgoyne and my own small corps would be separated immediately, and there would be a general rout. A retreat on the bank of the Hudson, where all crossings would be covered by artillery and to make the small arms' fire sufficient was a wild dream, to break our way separately through the woods, at the hazard of each, was also an impossible plan, and would sacrifice the whole corps, especially the Brunswickers, who were not made to adapt themselves in pathless woods. For all these reasons and as I did not consider the situation the same as at Maxen, where General Finck could have been helped by the king in 24 hours, but rather the same as at Pirna, where the Saxons were forced to capitulate because of lack of food. I considered an honorable capitulation not only advantageous but also necessary, at least to save the troops for the king. In my situation I considered myself doubly competent to speak thus out of interest for your Royal Highness.

Generals Burgoyne and Philips themselves saw no other expedient practicable but to effect a favorable capitulation, and it was decided to send a drummer to the enemy, the following day, however, the following day, however, it was decided to send a staff-officer, and the suggested articles would be propounded. However, before we went our separate ways, I asked General Burgoyne in the presence of all the staff-officers to declare that he had never disclosed his plans to me, or asked my opinions, and that "I had not the least part in all of the events which had occurred, to which he not only agreed, but also declared that all events which had happened, even the situation in which he now found himself, were entirely his own and no other's responsibility."²⁸

Valuable as the Baron's account is, his narrative of the details of the councils of war is less accurate than his estimate of the overall military situation. While a council was convened on October 13,

as the Baron related, a part of the discussions he described took place during a council that met on the previous day.

The minutes of the first council, as submitted to the Commons, read as follows:

Minutes of the first council of War, held on the Heights of Saratoga, Oct. 12

Present

Lieutenant General Burgoyne
Major General Heidesel

Major General Philips
Brigadier General Hamilton

The Lieutenant General states to the council the present situation of affairs.

The enemy is in force, according to best intelligence he can obtain, to the amount of upwards of 14,000 men, and a considerable quantity of artillery, are on this side the Fish-Kill, and threatens an attack. On the other side of the Hudson River, between this army and Fort Edward is another army of the enemy, the numbers unknown; but one corps which there has been an opportunity of observing, is reported to be about 1500 men. They have likewise cannon on the other side of the Hudson's River, and have a bridge below Saratoga church, by which the two armies can communicate.

The bateaux of the army have been destroyed, and no means appear of making a bridge over the Hudson's River, even if it were practicable from the position of the enemy.

The only means of retreat, therefore, are by the ford at Fort Edward, or taking the mountains in order to pass the river higher by rafts, or by any other ford which is reported to be practicable with difficulty, or by keeping the mountains, to pass the head of Hudson's River, and continue to the westward of Lake George all the way to Ticonderoga; it is true, this last passage was never made but by Indians, or very small bodies of men.

In order to pass cannon or any wheel carriages from hence to Fort Edward, some bridges must be repaired under fire of the enemy from the opposite side of the river, and the principal bridge will be a work of fourteen or fifteen hours; there is no good position for the army to take to sustain the work, and if there were, the time stated as necessary, would give the enemy on the other side the Hudson's River an opportunity to take post on the strong ground above Fort Edward, or to dispute the ford while General Gates's army followed in the rear.

The intelligence from the lower part of Hudson's River is founded

upon the concurrent reports of prisoners and deserters, who say it was the news in the enemy's cap, that Fort Montgomery was taken; and one man, a friend to government, who arrived yesterday, mentions some particulars of the manner in which it was taken.

The provisions of the army may hold out to the 20th; there is neither rum or spruce beer.

Having committed this state of facts to the consideration of the council, the General requests their sentiments on the following propositions.

1. To wait in the present positions an attack from the enemy, or to chance of favorable events.
2. To attack the enemy.
3. To retreat repairing the bridges as the army moves for artillery, in order to force the passage of the ford.
4. To retreat by night, leaving the artillery and the baggage; and should it be found impracticable to force the passage with musquetry, to attempt the upper ford, on the passage around Lake George.
5. In case the enemy by extending to their left, leave their rear open, to march rapidly for Albany.

Upon the first proposition resolved, that the situation would grove worse by delay, that the provision now in store not more than sufficient for the retreat should impediments intervene, or a circuit of country become necessary; and as the enemy did not attack when the ground was unfortified, it is not probably they will do it now, as they have a better game to play.

The second inadvisable and desperate, there being no possibility of reconnoitering the enemy's position, and his great superiority of numbers known.

The third impracticable

The fifth thought worthy of consideration by the Lieutenant-General, Major General Phillips, and Brigadier-General Hamilton; but the position of the enemy yet gives no opening for it.

Resolved that the fourth proposition is the only resource, and that to effect it, the utmost secrecy and silence is to be observed; and troops are to be put into motion from the right in the still part of the night, without any change in the disposition.

As von Riedesel noted in his narrative of the events, this decision was countermanded. While the Baron did not disclose the reasons, the addendum to the above minutes indicated that reconnaissance

disclosed that the American position on the right was such and so many scouting parties were out that it would be impossible to move without being immediately discovered. Because secrecy was requisite for success, the decision was recalled.

On the 11th, another council was convened to reconsider the problems discussed in the earlier meeting. Its minutes read as follows:

Minutes and Proceedings of a Council of War, consisting of all the general Officers and Field Officers, and Captains commanding Corps, on the Heights of Saratoga, October 13.

The Lieutenant-General having explained the situation of affairs, as in the preceding council, with the additional intelligence, that the enemy was entrenched at the fords of Fort Edward, and likewise occupied the strong position on the Pine plains between Fort George and Fort Edward, expressed his readiness to undertake at their head any enterprise of difficulty or hazard that should appear to them within the compass of their strength or spirit. He added, that he had reason to believe a capitulation had been in the contemplation of some, perhaps all, who knew the sequence to national and personal honour, he thought it a duty to his country, and to himself, to extend his council beyond the usual limits; that the assembly present might justly be esteemed a full representation of the army; and that he should think himself justifiable in taking any step in so serious a matter, without such a concurrence, of sentiments as should make atreaty the act of the army, as well as that of the general.

The first question therefore he desired them to decide was, Whether an army of 3500 fighting men, ad well provided with artillery, were justifiable, upon the principles of national dignity and military honour, in capitulating in any possible situation?

Resolved, nem. con. in the affirmative

Question 2. Is the present situation of that nature?

Resolved, nem. con. That the present situation justified a capitulation upon honourable terms.

The Lieutenant-General then drew up the message, marked No. 2, and laid it before the council. It was unanimously approved, and upon that foundation the treaty opened.³⁰

The text of the letter to Gates that Burgoyne drafted and submitted to the council read:

After having fought you twice, Lieutenant-General Burgoyne has waited some days in his present position, determined to try a third conflict against any force you could bring to attack him.

He is apprised of the superiority of your numbers, and the disposition of your troops to impede his supplies, and render his retreat a scene of carnage on both sides. In this situation he is impelled by humanity, and thinks himself justifiable by established principles and precedents of state, and of war, to spare the lives of brave men upon honourable terms. Should Major-General Gates be inclined to treat upon that idea, General Burgoyne would propose a cessation of arms during the time necessary to communicate the preliminary terms by which, in any extremity, he and his army mean to abide.³¹

Burgoyne next sent Gates the following message:

Lt. General Burgoyne is desirous of sending a field officer with a message to M. Genl. Gates upon a matter of high moment to both Armies. The Lt. Genl. requests to be informed at what hour Genl. Gates will receive him tomorrow morning.³²

To this message, Gates replied in a note dated 9:00 o'clock in evening of the 13th of October:

Major General Gates will receive a field officer from Lieut. Genl. Burgoyne, at the advanced post of the Army of the United States, at 10 o'clock tomorrow morning from whence he will be conducted to Head Quarters.³³

On the morning of the 14th, Major Robert Kingston, an acquaintance of Gates, appeared at the advanced post under a flag of truce and was conducted to Gates' headquarters. The major first read a memorandum from Burgoyne replying to a letter that Gates had written on the 12th criticizing the former's conduct, especially concerning the allegation: "The Cruelties which mark the Retreat of your Army, in burning the Gentlemen's and Farmer's Houses as they pass along, is almost among civilized National a Precedent, they should not endeavor to ruin those, they could not conquer, this Conduct betrays more of the vindictive Malice of a Monk, than the Generosity of a Soldier."³⁴

Burgoyne defended the destruction of Schuyler's buildings as resulting from military necessity. He further pointed out that the old

barracks at Saratoga had burned by accident, in spite of efforts to save them. Concerning the exchange of prisoners held by Gates for Ethan Allen, Burgoyne properly stated that he could not interfere with the prisoners held by Sir. William Howe, especially as the case of Allen had been the subject of negotiations between Howe and Washington.³⁵

Having read this thinly veiled reminder to Gates to mind his military manners, Kingston presented the letter that Burgoyne had prepared with the approval of the members of the council of war on the 13th.³⁶

Gates, then, much to the surprise of his adjutant, handed Kingston a paper, saying that there were the terms upon which Burgoyne must surrender. Wilkinson's account of the latter part of the interview follows:

So soon as he had finished, to my utter astonishment, General Gates put his hand into his pocket, pulled out a paper, and presented it to Kingston, observing "There, Sir, are the terms upon which General Burgoyne must surrender." The Major appeared thunderstruck, but read the paper, whilst the old chief surveyed him attentively through his spectacles. Having finished the perusal of the propositions of General Gates, Major Kingston appeared exceedingly mortified, and said to the General, "I must beg leave to decline delivering this paper to Lieutenant-General Burgoyne, because although I cannot presume to speak for him, I think the propositions it contains cannot be submitted to." The General observed that he might be mistaken, and there could be no impropriety in his delivering them. Kingston requested that they might be sent by one of his own officers, which the General declined, and remarked "That as he had brought the message, he ought to take back the answer;" to which the Major reluctantly consented, took leave, and I again filleted him, and at his request conducted him to our advanced guard..... I hastened back to head quarters, filled with uneasiness by the course which General Gates had adopted.

As soon as I returned, I yielded to the prescriptions of duty and affection, and inquired of the General whether "he had not given Burgoyne an advantage by not waiting to receive his overtures, before he presented his own terms?" he could see none. I then inquired "Whether he meant, in any extremity, to recede from the propositions he had made?" He admitted that he did, and would relax a great deal to get possession of the enemy's arms.³⁷

Major Kingston delivered the American commander's proposals before his commanders. The council unanimously rejected the sixth, and crucial

article, of Gates conditions. Burgoyne next submitted his replies to Gates' proposals, and the council approved.³⁸

On the evening of the 11th, Major Kingston reappeared with a flag to present his commander's preliminary proposals and his answer to Gates' proposition.

Gates proposals and Burgoyne's reply were as follows:

Major General Gates' Proposals; together with General Burgoyne's Answers

I. General Burgoyne's army being exceedingly reduced by repeated defeats, by desertion, sickness, &c. their provisions exhausted, their retreat cut off, and their camp invested, they can only be allowed to surrender prisoners of war.

Answer: Lieutenant-General Burgoyne's army, however reduced, will never admit that their retreat is cut off, while they have arms in their hands.

II. The officers and soldiers may keep the baggage belonging to them. The generals of the United States never permit individuals to be pillaged.

III. The troops under his Excellency General Burgoyne will be conducted by the most convenient route to New England, marching by easy marches, and sufficiently provided for by the way.

Answer. This article is answered by General Burgoyne's first proposal, which is here annexed.

IV. The officers will be admitted on parole; may wear their side arms, and will be treated with the liberality customary in Europe, so long as they, by proper behaviour, continue to deserve it; but those who are apprehended having broken their parole, as some British officers have done, must expect to be close confined.

Answer. Their being no officer in this army under, or capable of being under the description of breaking parole, this article needs no answer.

V. All public stores, artillery, arms, ammunition, carriages, &c. &c. must be delivered to commissaries appointed to receive them.

Answer. All public stores may be delivered, arms excepted.

VI. These terms being agreed to and signed, the troops under his excellency General Burgoyne's command may be drawn up in their encampments, where they will be ordered to ground their arms, and may thereupon be marched to the river side, to be

passed over in their way towards Bemington.
Answer. This article inadmissable in any extremity. Sooner than this army will consent to ground their arms in their encampment will they rush on the enemy, determined to take no quarter.

VII. A cessation of arms to continue till sun-set, to receive General Burgoyne's answer.

(Signed)

Camp at Saratoga, Oct. 11

Horatio Gates³⁹

Kingston also delivered the following:

If General Gates does not recede from the 6th article, the treaty ends at once.

The army will to a man proceed to any act of desperation, rather than submit to that article.

The cessation of arms ends this evening.⁴⁰

Major Kingston then delivered Burgoyne's proposals for terms, stipulating that the Major would return at 10 o'clock the morning of the 15th for Gates' response.

Burgoyne's preliminary articles and the American commander's replies read:

The annexed answers being given to Major-General Gates's proposals, it remains for Lieutenant-General Burgoyne, and the army under his command to state the following preliminary articles on their part.

1st. - The troops to march out of their camp with the honours of war, and the artillery of the entrenchments, which will be left as hereafter, may be regulated.

(1st. - The troops to march out of their camp, with the honours of war, and the artillery of the entrenchments to the verge of the river, where the old fort stood, where their arms and artillery must be left.)

2d. - A free passage to be granted to this army to Great Britain upon conditions of not serving again in North America during the present context, and a proper port to be assigned for the entry of transports to receive the troops, whenever General Howe shall so order.

(2d. - Agreed to, for the port of Boston.)

3d. - Should any cartel take place by which this army or any part of it may be exchanged, the foregoing article to be void as far as such exchange shall be made.

(3d. - Agreed)

4th. - All officers to retain their carriages, batt-horses, and other cattle, and no baggage to be molested or searched, the Lieutenant-General giving his honour that there are no public stores secreted therein, Major-General Gates will of course take the necessary measures for the security of this article.

(4th. - Agreed)

5th. - Upon the march of the officers are not to be separated from their men, and in quarters the officers are to be lodged according to rank, and are not to be hindered from assembling their men for roll callings, and other necessary purposes of regularity.

(5th. Agreed to as far as circumstances will admit.)

6th. - There are various corps in the army composed of sailors, bateauxmen, artificers, drivers, independent companies, and followers of the army, and it is expected that these persons of whatever country, shall be included in the fullest and utmost extent of the above articles, and comprehended in every respect as British subjects.

(6th. - Agreed to in the fullest extent.)

7th. - All Canadians and persons belonging to the establishment in Canada to be permitted to return there.

(7th. - Agreed)

8th. - Passports to be granted to three officers, not exceeding the rank of Captain, who shall be appointed by General Burgoyne to carry despatches to Sir William Howe, Sir Guy Carleton, and to Great Britain by the way of New York, and the public faith to be engaged that these despatches are not to be opened.

8th. - Agreed.)

9th. - The foregoing articles are to be considered only as preliminaries for framing a treaty, in the course of which others may arise to be considered by both parties, for which purpose it is proposed, that two officers of each army shall meet and report their deliberations to their respective Generals.

(9th. - The capitulation to be finished by 2 o'clock this day, and the troops march from their encampment at five, and be in readiness to move towards Boston tomorrow morning.)

10th. - Lieutenant-General Burgoyne will send his deputy adjutant-General to receive Major-General Gates's answer, to-morrow morning at 10 o'clock.

(10th. - Complied with.)

(signed) "J. Burgoyne.
Saratoga, Oct. 11th, 1777

Saratoga, October 15, 1777
"H. Gates."

NOTE: Comments in parenthesis attributed to Gates, responding to Burgoyne's suggestions.-EB

Kingston received Gates' answers from Wilkinson at the stipulated hour and delivered them to his commander.

General Gates' unexpected agreement to the greater part of the preliminary proposals, which gave the British such liberal terms, and his haste to conclude negotiations, reflected in the American commander's stipulation that the capitulation must be accomplished by two o'clock in the afternoon, aroused Burgoyne's suspicions. He quickly concluded that the reason for Gates' sudden eagerness to conclude the exchange of terms must be that Sir Henry Clinton was moving up the Hudson River, south of Albany.

If Burgoyne's guess was correct, the wisest course would be to gain time that would either permit Clinton to come to his relief or to bring sufficient pressure on Gates that the latter would have to raise the siege or grant even more favorable terms. Burgoyne convened another council of war, and it was decided to inform Gates that, while the basis of the treaty was agreed to, some minor matters needed additional exploration which would require a longer time than had been stipulated by Gates. The British commander would appoint two officers to meet with two from Gates "to propound, discuss, and settle those subordinate articles, in order that the treaty in due form may be executed as soon as possible."⁴²

Upon receiving this message, General Gates appointed Brigadier General Whipple and Colonel Wilkinson to meet the British commissioners,

Lieutenant Colonel Nicholas Sutherland and Captain James H. Craig. The secretary for the meeting was Major Pierce, aide-de-camp to General Gates.

The commissioners met on the afternoon of the 16th, near one of General Schuyler's saw-mills, and after a lengthy discussion, signed and exchanged articles of capitulation, and about eight o'clock that evening parted to report to their respective commanders.⁴³

At eleven o'clock that night, on returning to headquarters, Wilkinson found the following letter from Captain Craig:

Camp at Saratoga, 15 Oct.
 $\frac{1}{2}$ past 10 o'clock

Sir,

Upon reporting the proceedings of this evening to Lieutenant-General Burgoyne I was happy to receive his approbation of and ready concurrence in every article that has been agreed upon between us; it however appears upon a retrospect of the treaty, that our zeal to complete it expeditiously has led us unto the admission of a term in the title very different from his meaning, and that of the principle officers of this army, who have been consulted on this important occasion. We have, Sir, unguardedly called that a treaty of capitulation, which the army means only as a treaty of convention. With the single alteration of this word, Lieutenant-Colonel Sutherland and myself will meet you at the stipulated time tomorrow morning with the fair copy signed by General Burgoyne.

I hope, Sir, you will excuse my troubling you so late, but I thought it better than by any delay to prevent the speedy conclusion of a treaty which seems to be the wish of both parties, and which may prevent the further effusion of blood between us, I beg your immediate answer, and am

Sir,

Your obedient and humble servant,
James Henry Craig
Capt. 47th Reg.⁴⁴

Gates could not feel that the choice of terms was very important, except in salving the defeated enemy's pride, and the following reply was made: "Colonel Wilkinson's compliments to

Captain Craig, Major-General Gates will admit the alteration required."⁴⁵ In this manner, the Articles of Capitulation became the Articles of Convention, and Gates believed that by the substitution of a word the wearisome negotiations had been terminated.

The American commander's hopes were somewhat premature. General Burgoyne was still playing for time and hoping to exploit any chance that Gates would be influenced by Sir Henry Clinton's movements on the lower Hudson. An excellent source for assessing Burgoyne's motives is von Riedesel's account, and translation of which follows:

. . . This sudden change Gates' agreement to the preliminary articles put General Burgoyne in great confusion, uncertainty and suspicion as to whether perhaps General Clinton was not approaching. In order to gain time then, it was suggested that these were only preliminary terms, and that it would be necessary to have a commission draw up the still necessary secondary articles. It was agreed to send over 2 staff officers of us, Colonel Sutherland sic and Captain Gray Craig, and this lasted the whole night. The next morning everything was read up to General Burgoyne's signature, to being about which both of the staff officers had given their word of honor. In the night from the 15th to the 16th a man came allegedly from Albany, who asserted that General Clinton was advancing to Albany, and was probably there by now. This perplexed us very much, particularly as this informer had not seen the corps of General Clinton, but had the information only third-hand by hearsay. General Burgoyne ~~agreed~~ ~~was~~ was filled with hope again, and wanted to break the already agreed preliminary terms, even if both the deputy officers had given their approval to the amendment. A council of war was called together again, and first the question was raised as to whether General Burgoyne could break the already approved convention with honor. This was answered by a majority with No. Then, whether the news which had been received could be accepted as true, and whether such would improve our situation or not. This was also answered by No. Finally, a compromise was reached to write to General Gates; how we had definite news that he had had sent troops to Albany during the armistice. Since, therefore, his army had been so weakened during the armistice that the capitulation could not be entered into, he should allow 2 of our officers to be shown his whole army.⁴⁶

Burgoyne had been correct in guessing that Gates was concerned with Clinton's moves. The latter, accompanied by Admiral Vaughan,

had reached Esopus, now Kingston, N. Y. Gates had been concerned as early as October 5, when he expressed the conviction that Burgoyne's hope lay in Clinton's "forcing the Highlands," and had written in that vein to Laurens.⁴⁷

Pressure was being exerted upon the American commander from fearful citizens of Albany, always ready to embarrass Schuyler's successor, to send a part of his force to protect them from the threat ~~of~~ posed by Clinton's presence at Esopus. While he did not yield to their demands, but ordered a regiment from Fort Stanwix,⁴⁸ he was anxious to dispose of Burgoyne's force before Clinton could act more decisively. He had received reassuring news from Israel Putnam and a letter from Governor Clinton that might have persuaded him that the situation was less critical than had been at first believed. However, in spite of even the most sanguinary interpretation of Clinton's activities, he felt that the completion of the campaign against Burgoyne at the earliest moment was necessary.

In short, both commanders were about equally interested in the time factor - Burgoyne trying to buy time; Gates trying to terminate the campaign in the north in time to turn attention southward.

There can be little doubt that Clinton's presence at Esopus influenced Gates in his general acceptance of Burgoyne's proposals and his anxiety to expedite the surrender.

To return to the negotiations: as von Riedesel related, Burgoyne sent a message to Gates concerning an allegation that a part of the American force had been despatched from the main body.

Burgoyne's message read:

In the course of the night Lieutenant-General Burgoyne has received intelligence that a considerable force has been detached from the army under the command of Major-general

Gates, during the course of the negotiation of the treaty depending between them. Lieutenant-general Burgoyne conceives this, if true, to be not only a violation of the cessation of arms, but subversive of the principles on which the treaty originated, viz. a great superiority of numbers in General Gates's army. Lieutenant-general Burgoyne therefore requires that two officers on his part, be permitted to see that the strength of the force now opposed to him is such as will convince him that no such detachments have been made, and that the same principles of superiority on which the treaty first began still exists.⁴⁹

Burgoyne was both playing for time and attempting to prevent Gates from acting to protect Albany or to act against Clinton, while at the same time coping with Burgoyne's force.

When the American commander received this letter from his opposite number on the morning of the 16th, he consented to allow Colonel Wilkinson to visit Burgoyne's headquarters to reply to the unusual and somewhat impudent request.

Wilkinson, no shrinking violet, has left a glowing account of his appearance in the British camp, writing:

I immediately repaired to the advance guard, beat the chamade and requested a subaltern officer, George Edward Schlager of the 21st regiment, who received me to send for Major Kingston, whom I informed, "that I was charged with a verbal message from Major-General Gates to Lieutenant-General Burgoyne," and after some ceremony, I was permitted to pass between two log redoubts, in the rear of which I was introduced to Lieutenant-General Burgoyne, attended by Major generals Phillips and Reidesel, and Brigadier-generals Hamilton, Gall, and Specht.

I have some impression that my friend Mr. Livingston again accompanied me, but will not be positive; I have often looked back to that interview, and the incidents of that day, with gratitude to the invisible power which directed my conduct; on an occasion, which interested the lives of thousands, and involved momentous national consequences. The following statement will best interpret the merit of my agency.

A youth, in a plain blue frock, without other military insignia than a cockade and sword, I stood in the presence of

three experienced European Generals, soldiers before my birth; Phillips had distinguished himself (and received the thanks of Prince Ferdinand) at Minden in 1759; Burgoyne had served with credit under Count La Lippe on the Tagus in 1762, and Reidesel was an eleve of the Duke of Brunswick; yet the consciousness of my inexperience did not shake my purpose and I had conceived in my mind the following message, which I delivered verbatim to Lieutenant-general Burgoyne from ~~Major~~ Major-general Gates, and afterwards furnished a copy of it.

Message delivered by Colonel Wilkinson to Lieutenant-general Burgoyne, from Major-general Gates, Oct. 16th, 1777.

Major-general Gates in justice to his own reputation, condescends to assure your excellency, that no violation of the treaty has taken place on his part since the commencement of it, the requisition, therefore, contained in your message of this day is inadmissible; and as it now remains with your excellency to ratify or dissolve the treaty, Major-general Gates expects your immediate and decisive reply.⁵⁰

During the conversation that followed the delivery of the reply, General Burgoyne undertook to vindicate his action by saying that not only his reputation, but the service of the King and the honor of the British arms required the most cautious circumspection. He referred to the information he had received from vague camp rumors, deserters, the authentic information supplied by the Loyalist who had come through the lines on the previous night. His informant had, no doubt, seen men moving southward; however, they were militia whose term had expired and who refused to remain longer in service. The British commander went on to express his faith in the spirit of his army and his belief that there was not a man who did not "pant for action."⁵¹

Wilkinson then called Burgoyne's attention to the American forces lining the hills on the east side of the Hudson and those surrounding him on the south, west, and north.

Burgoyne continued to declare that he would not sign the convention and informed the American that the truce would end in one hour. Wilkinson recalled:

. . . and after a moment's pause, I added, "Be pleased, Sir, to favour me with your determination?" He answered, "I do not recede from my purpose; the truce must end." "At what time, Sir?" "In one hour." We set our watches, and on taking leave, I observed, "After what has passed, General Burgoyne, there can be no treaty; your fate must be decided by arms, and General Gates washes his hands of the blood which may be spilled." "Be it so," said he, and I walked off with the most uncomfortable sensations; for our troops were much scattered, having encompassed the British army in three parts out of four; the men had got the treaty into their heads, and had lost their passion for combat, and what was worse we had been advised of the loss of Fort Montgomery, and a remour had just arrived that Esopus was burnt, and the enemy proceeding up the river; but I had not proceeded fifty rods, when Major Kingston ran after me and hailed; I halted and he informed me, that General Burgoyne was desirous to say a few words to me; I returned, when he addressed me by observing, that "General Gates had in the business depending between them, been very indulgent, and therefore he would hope for time to take the opinion of his general officers, in a case of such magnitude to the two armies; as it was far from his disposition to trifle in an affair of such importance." Gen. Phillips then spoke, "Yes, Sir, yes Sir, Gen. Burgoyne don't mean to trifle on so serious an occasion; but he feels it his duty to consult his officers." I asked what time he would require? he mentioned two hours; and we again set watches, and I retired, promising to wait at our picket for his answer.⁵²

Burgoyne convened another council of war to consider whether the treaty, in its present situation, was binding on the army, or if the commanding general's honor was engaged for signing it.⁵³

Burgoyne was convinced that he was not duty bound by what had occurred and that he would not execute the treaty upon the sole consideration of a point of honor. He was persuaded that by great exertions and by undergoing hardships for lack of provisions, the army might still be relieved.

The British commander never lost confidence in his men and hoped until the last moment that some fortunate event might save his army from surrender. His generals were less optimistic. One reported that his post was untenable and if the convention was not signed, he feared wholesale desertions. Another officer was afraid that one of the regiments could not be depended upon; and a second regiment was reported as being

disheartened and no longer capable of its former exertions. The men had come to think of the convention as desirable. Many of the ablest officers were absent, sick, or wounded. Further, if the treaty were broken off, a future renewal would be hopeless. A defeat in a trial at arms would be fatal of the army; and a victory could not save it, as there were not sufficient provisions to support either an advance or a retreat.⁵⁴

In view of the cogency of the officers' remarks and the determination of the majority of the council that the public faith had been plighted, General Burgoyne agreed to sign the convention.

Wilkinson wrote the following concerning the period between his interview with Burgoyne and the receipt by the Americans of the word that the British commander had signed the convention.

The interview with General Burgoyne had been spun out to such a length that General Gates became uneasy, and I found a messenger waiting at our picket, to know what I had done. I reported in brief, what had passed, and what was depending; and took a position near the ruins of General Schuyler's house, where I walked and expected with much anxiety, the result of General Burgoyne's consultation: the two hours had elapsed by a quarter, and an aid-de-camp from the General had been with me, to know how matters progressed; soon after, I perceived Lieutenant-Colonel Sutherland opposite me, and beckoned him to cross the creek; on approaching me he observed, "Well, our business will be knocked in the head after all." Inquiring why, he responded, "the officers had got the devil in their heads, and could not agree." I replied gaily, "I am sorry for it, as you will now not only lose your fusee, but your whole baggage." He expressed much sorrow, but said he could not help it. At this moment I recollected the letter Captain Craig had written me the night before, and taking it from my pocket, I read it to the Colonel, who declared he had not been privy to it; and added with evident anxiety, "Will you give me that letter." I answered in the negative, and observed, "I shall hold it as a testimony of the good faith of a British commander." He hastily replied, "Spare me that letter, Sir, and I pledge you my honour I will return it in fifteen minutes." I penetrated the motive and willingly handed it to him; he sprang off with it, and directing his course to the British camp, ran as far as I could see him: in the meantime, I received a peremptory message from the General to break off the treaty, if the convention was not immediately ratified. I informed him by the messenger, that I was doing the best I could for him, and would see him in half an hour. Colonel Sutherland was

punctual to his promise, and returned with Captain Craig, who delivered me the convention, signed by General Burgoyne, with an additional article specifically to include himself, which I engaged should be admitted by General Gates, and immediately sent to General Burgoyne.⁵⁵

There follows the text of the Convention of Saratoga, as recorded in the personal papers of General Gates:

Articles of Convention between Lieutenant General Burgoyne & Major General Gates. ---

1st

The Troops under Lieut. General Burgoyne are to march out of their camp with the Honours of War and the Artillery of the Intrenchments to the Verge of the River where the Old Fort stood, where the Arms and Artillery are to be left, the Arms to be piled by word of Command of their own Officers.

2nd

A free Passage to be granted to the Army under Lieut. General Burgoyne to Great Britain upon Conditions of not serving again in North America during the present Contest, & the Port of Boston is assigned for the Entry of Transports to receive the Troops whenever General Howe shall so order. ---

3rd

Should any Cartel take place by which the Army under Lieut. General Burgoyne or any part of It may be exchanged, the foregoing Article to be Void, as far as such Exchange shall be made.

4th

The Army under Lieut. General Burgoyne to march to Massachusetts Bay, by the easiest most expeditious & convenient Route, & to be quartered as, near, or as convenient as possible to Boston, that the March of the Troops may not be delayed, when Transports arrive to receive them. ---

5th

The Troops to be supplied on the March & during their being in Quarters, with Provisions by General Gates's Orders, at the same Rate of Rations as the Troops of his own Army, & if possible, the same Officers Horses and Cattle are to be Supplied with Forrage at the Usual Rates.

6th

All Officers to retain their Carriages Batt H orses and other Cattle, & no Baggage to be Molested or searched. Lieut. General Burgoyne giving his Honor, there are no public Stores secreted

-----therein. Major General Gates will of Course take the necessary Measures for the due performance of this Article. Should any Carriages be wanting for the Transportation of Officers' Baggage, they are if possible, to be supplied by the Country at the usual rates.

7th

Upon the March and during the Time the Army shall remain in Quarters in the Massachusetts, the Officers are not, as far, as Circumstances will admit to be separated from their Men. The Officers are to be quartered according to Rank and are not to be hindered from assembling their Men for Roll Calling & Other Purposes of Regularity.---

8th

All Corps whatever of General Burgoyne's Army, whether composed of Sailors, Batteamen, Artificers, Drivers, Independent Companies, & Followers of the Army of whatever Country shall be included in the fullest Sense & utmost Extent of the above Articles & Comprehended in Every Respect as British Subjects. ---

9th

All Canadians & other persons belonging to the Canadian Establishment, consisting of Sailors, Batteamen, Artificers, Drivers, Independent Companies & many other Followers of the Army, who come under no particular Description, are to be permitted to return here. They are to be conducted immediately, by the shortest Route to the first British post on Lake George, are to be supplied with Provisions in the same Manner as the Other Troops & are to be bound by the same Conditions of not serving during the present Contest, in North America.---

10th

Passports to be immediately granted to three Officers not exceeding the Rank of Captains, who shall be appointed by ~~General Burgoyne~~ ~~British Dispatches of New York.~~ Major General Gates engages the public Faith, that these Dispatches shall not be opened, these Officers are to be set out immediately after receiving their Dispatches & to travel by the shortest Routes & in the most expeditious Manners.---

11th

During the Stay of the Troops in Massachusetts Bay, the Officers are to be admitted to Paole & are to be allowed to wear their side arms.---

12th

Should the Army under Lieut. General Burgoyne find it necessary to send their Cloathing & Other Baggage to Canada, they are to be permitted to do it, in the most convenient Manner & the necessary Passports granted for that purpose.*---

13th

These Articles are to be Mutually agreed & exchanged to Morrow Morning at 9 O Clock & the Troops under Lieut. General Burgoyne are to march out of their Intrenchments at 3 O'Clock in the Afternoon.---

Thus ended the negotiations attending the surrender of Burgoyne's army. Both commanders have been criticized for their actions: Burgoyne for his alleged cupidity and Gates for the liberality of his terms. On the face of the evidence studied during the preparation of this paper, the writer believes that each man conducted himself in what he felt to be the best interests of the government he served, Burgoyne sought to save his army for future service, Gates sought to secure his army for future service. Gates sought to secure the surrender of the army in time to permit the Americans freedom to act on the lower Hudson. The fact that Clinton posed less of a threat than was supposed does not alter this judgment, and some of those who later most loudly condemned Gates for his evaluation of the strategic situation were equally vocal in demanding that he do something against Clinton while the negotiations were in progress.

The story of the surrender of Burgoyne's army is ably told in Historian Charles W. Snell's report, The Site of the Sword Surrender Ceremony at Schuylerville (Old Saratoga), New York, October 5, 1949.

William M. Dabney's After Saratoga: The Story of the Convention Army, The University of New Mexico Press, Albuquerque, 1954, is an excellent study of the experiences of Burgoyne's army during the period to 1783.

FOOTNOTES

1. Burgoyne, John, A State of the Expedition from Canada, Printed for J. Almon, London, 1780.
2. Luzader, John F., Documentary Study of the Death and Burial of General Simon Fraser, May 1, 1958, pp. 34-6.
3. Gates Papers, Force Transcripts, Library of Congress
4. (1) Ibid.
(2) Stark, Caleb, Memoirs and Official Correspondence of General John Stark, G. Parker Lyon, Concord, 1860.
5. Burgoyne, op. cit., "Narrative."
6. Bancroft Collection, New York Public Library, 1 tr. Baron von Riedesel to the Duke of Brunswick, Albany, October 21, 1777; hereinafter referred to as Riedesel Mss.
7. von Riedesel, Baroness, Berufs Reise, Berlin, 1800.
8. Burgoyne, op. cit., pp. 126-7.
9. Riedesel Mss.
10. Burgoyne, op. cit., LIII
11. (1) Gates Papers, Force Mss, Library of Congress
(2) Wilkinson, James, Memoirs of My Own Times, Abraham Small, Philadelphia, 1816, 3 vols. Vol. I, pp. 282-3.
12. Ibid., p. 284
13. Map. Plan of the Position which the Army under Lt. Genl. Burgoyne took at Saratoga on the 10th of September 1777 and in which it remained till the Convention was signed.
14. Luzader, John F., Historic Building Survey Report, General Philip Schuyler House, Part I, Historical Data Section.
15. Wilkinson, op. cit., pl 285.
16. Ibid., pp. 286-7.
17. Ibid., p. 288.
18. Ibid., pp. 288-9.
19. (1) Ibid., p. 289.
(2) Map. Plan of the Position of the Army, etc.

20. Riedesel Mss.
21. Ibid.
22. Ibid.
23. Von Riedesel, Beruf Reise, pp. 126-7.
24. Ibid.,
25. Anburey, Thomas, Travels Through the Interior Parts of America,
2 vols., Houghton Mifflin Co., Boston & New York, 1923,
Vol. II, pp. 5-7.
26. Burgoyne, op. cit., p. 229.
27. Ibid., p. 56.
28. Riedesel Mss.
29. Burgoyne, op. cit., Appendix XV.
30. Ibid.
31. (1) Ibid.
(2) Gates Papers, Force Mss., Library of Congress
32. Ibid.
33. Ibid.
34. Ibid.
35. Ibid.
36. Ibid.
37. Wilkinson, op. cit., p. 302.
38. Burgoyne, op. cit., Appendix XV.
39. (1) Burgoyne, op. cit., Appendix XV.
(2) Wilkinson, op. cit., pp. 304-5.
(3) Gates Papers, Force Mss., Library of Congress
40. (1) Burgoyne, op. cit., Appendix XV.
(2) Gates Papers, Force Mss., Library of Congress.
41. Ibid.
42. (1) Riedesel Mss.
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43. Wilkinson, op. cit., pp. 309-10.
44. Gates Papers, Force Mss., Library of Congress
45. Ibid.
46. Riedesel Mss.,
47. Gates Papers, Force Mss., Library of Congress
48. Ibid.
49. Ibid.
50. Wilkinson, op. cit., pp. 312-13.
51. Ibid., p. 314.
52. Ibid., pp. 315-6.
53. Burgoyne, op. cit., Appendix IX.
54. (1) Ibid., Appendix XVII.
(2) Ibid., Balcarres' Testimony
55. Wilkinson, op. cit., pp. 316-7.
56. Gates Papers, Force Mss., Library of Congress
57. Papers of the Continental Congress, Vol. 57.

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Map.

Plan of the Position which the Army under Lt. Genl Burgoyne took at Saratoga on the 10th of September 1777 and in which it remained till the Convention was signed.