CONGRESS.

HOUSE OF REPRESENTATIVES.

MONDAY, *APRIL* 21.

DEBATE

On offering the memorials of William S. Smith, and Samuel G. Ogden, relative to their concern with General Miranda in fitting out the Leander.

The memorial having been read,

MR. LYON moved, that the petitioners have leave to withdraw their petitions.

MR. N. WILLIAMS said that it appeared to him that the tendency of this memorial was, by obtaining the sanction of the House to its contents, to throw the blame and censure on the prosecutors. It appeared to him proper to arrest such a mode of proceeding, especially while the business to which the memorials referred was *sub judice.* They contended accusations against the judge, who himself was under a prosecution. He did not see the object of the petitions, unless it was to excite a clamor and indignation against the court. It was improper that they should be sanctioned by being printed under the direction of this House, while the cause was depending, and it was unknown whether the court had acted properly or improperly. Suppose previously to these trials coming on, a censure should be cast on the court; would not this be a novel kind of proceeding—would it not be wresting justice from its due course, and be degrading to the legislature? Such a procedure would likewise be dangerous to the principles of justice. Shall we permit a person under accusation to prefer a charge against the tribunal before whom he is summoned to appear? Suppose we declare the court, and not the criminal guilty, shall we not thereby prostrate every principle of justice, and set a precedent never known in any country, as dangerous to the liberty of the subject, as violative of the constitution? In my opinion the legislature ought not in this stage of the business to interfere. Such interference will be premature. If hereafter the prosecution appears to have been improperly conducted, it will be time enough to make an enquiry into the conduct of the prosecutor and the court; but before that, such an enquiry will be premature, and will be a prejudging of the case. From the moment I heard these petitions read, they struck me as being of a most dangerous tendency—if at all sanctioned by this House, they will tend to incense not only the country against the administration, but against the tribunals of justice. We find it asserted in them, that the administration, and particularly the secretary of state had a full knowledge of all the transactions connected with the fitting out the Leander. This charge has been already made in the newspapers—it has gone abroad, and been contradicted; and I do not hesitate to declare in my place that the accusation is false, that it is a calumny, that there is not a word in the petition charging the administration with this fact that is founded in truth. I think the proper course is for the petitioners to have leave to withdraw their petitions—Not that I am for a denial of justice. If the petitioners fail in their application for justice to the court, it will then be time enough for us to interfere. Indeed it is a thing unheard of in this nation—while the accused are under prosecution, that they should be suffered to come forward to the House of Representatives with charges against the court and the government. The memorialists not only charge the government, but the magistrates with corrupt motives. Shall we permit the government to be thus treated, and the tribunals of justice to be thus calumniated; and give a sanction to the charges by printing a paper that contains them? I hope we shall have virtue and firmness enough to resist such a procedure. I think we have gone far enough in patiently listening to petitions which have no legal object in view, which not only charge the departments of the executive government with improper views, but which contain accusations against the tribunals of justice—what scarcely merit to be called accusations—but base calumnies. The manner too in which these memorials have been presented is most extraordinary. In point of time, this being the last day of the session, it must have been known that it was out of our power to investigate their contents. It is also very unfortunate, when the citizens of New-York are so ably represented on this floor that the petitioners have been obliged to travel to Boston, in order to obtain a gentleman to present their memorials. For these reasons, I shall vote decidedly against the printing.

MR. QUINCY said that the observations which were made were such as might have been expected to be offered, had it been proposed to go into an enquiry on these memorials. I do not say, said Mr. Quincy, that the information contained in the petitions is true—all I say is, that as a high officer of the government is implicated, justice requires that an enquiry at some time should take place. I do not say that it ought now to take place. The question at present is whether this information shall rest on our tables. Gentlemen say no—throw it off. But I say enquire; because I believe when an examination shall be made a part of the statement at least will be found to turn out correct. It is said that the memorialists are under accusation; but have they not, therefore, a right to petition this House? But so far as relates to the judge, there is only an information by the grand jury—not a prosecution. Whoever heard of a man accused before himself? Gentlemen may throw these petitions under the table, but if they do so, they will do a great disrespect to the House. My only object is that an enquiry should be made at a convenient season into the facts alledged in these petitions. The information contained in some of those statements is corroborated by information kown to some gentlemen on this floor—that the executive had been advised of the fitting out of the Leander time enough to have prevented her sailing. By throwing these petitions under the table gentlemen will show that they are not disposed to investigate these facts.

MR. SMILIE believed the House were to blame in permitting these petitions to be presented. It was a rule of the House that every member presenting a petition should first generally state its contents. The member who presented these petitions, having made this statement, I think the House ought not to have permitted them to have been read. I will call to the recollection of gentlemen a transaction which took place two years ago. A petition was then presented from certain aliens in Pennsylvania and New-York; and because they reflected on a former administration, the House would not hear them. I never did, said Mr. S. witness such an attempt as this; and could such attempts be sustained, they would subvert all government whatever. Shall a person accused of a crime, while his trial is depending, bring forward complaints against his judges? If so, we have no regular government. This is turning the House of Representatives into a judiciary body, and authorising them to wrest all other business from the tribunals of justice.

MR. ALSTON. I would not rise, but for the extraordinary declaration of the gentleman from Massachusetts, who says members of the House knew that the President was possessed of knowledge of the Leander's sailing time enough to have prevented it. He says he knew it. If so, this sufficiently accounts for the course now proposed to be taken. If the fitting out and the destination of the Leander were known to any member of this House, I pronounce that member equally criminal with the Secretary of State or the President. For my part I had heard a gentleman of respectability from New York say, though some people were prepared for the sailing of the Leander, he did not think twenty men in New-York knew the place of her destination. As to the course pursued by the House, it is perfectly immaterial to me, whether the petitions lie on the table, or are returned to those from whom they came—my only wish is, that we do not sanction a thing of this kind without knowing more about it.

MR. JACKSON. The gentleman from Massachusetts has told us of information possessed in this House of a most extraordinary nature—certainly the most extraordinary in the annals of jurisprudence. That government had a knowledge of this case, and that they are afraid to trust the decision of a jury of their country. This is most extraordinary indeed. For my part, I regret that the gentleman from Massachusetts had so far forgot his own dignity, and the duty he owes his country, as to have permitted himself to have become the organ of these charges. He has told us we will discredit ourselves by rejecting these petitions. But permit me to say he has already more discredited himself by presenting them. The petitioners say this expedition has received the applause and encouragement of the government, and the gentleman says this is known to the House. I pronounce this false. I say it is a base calumny, of which the gentleman has made himself the organ; and in saying so, I hold myself responsible in any place the gentleman pleases.

MR. QUINCY. I deemed it my duty to present a petition handed to me, let it come from what quarter it might—and in this instance before I presented these memorials I made a correct statement of all their contents, which the House heard, and having heard, received them. As to the harsh things which have been uttered by the gentleman from Virginia it is not in his power to hurt my reputation. I said some information, stated in the memorials, was correct. I say so now. But did I say the whole information contained in them, with the coloring, was true? Gentlemen will bear me witness that I said I did not believe the facts could be proved; but that there was ground enough to justify the going into an enquiry. Now as to the information alluded to. I received no information myself from New York—the information came to a gentleman on this floor. Was it for me to bring this information before the House. Other gentlemen had the same information. I have said these things as a reason for not being too precipitate. Such conduct will look as if we were influenced by improper motives. In what I have said I by no means mean to give a sanction to the memorials.

MR. MUMFORD. On the 1st of February I applied to the collector of New York. He declared he did not know the real destination of the Leander—she had cleared out for Jacmel. The 2d February, the Leander sailed from the watering place at Staten Island. Her destination was the common subject of conversation. Some supposed it was to one place, and some to another; but it was generally conjectured to be a British expedition. It was common conversation that Miranda had brought with him a credit on Great Britain, and I have since been informed he drew a bill on one of the late British administration. Shortly after I heard of the prosecution; but I never imagined the administration had any thing to do with the expedition.

MR. QUINCY said, in the remarks he had offered he had only meant to say there had been an extraordinary equipment and arming in the harbor of New York. He did not mean to pledge himself as to the knowledge of the destination, or to the other fact, whether there was time for the administration to have prevented it.

[MR. JACKSON. The gentleman did say so.]

MR. QUINCY. Such is my impression at present, but I am not certain of it. Since I rose, I have understood that after this information was received, an attempt was made by the executive to stop the vessel. In making the remarks I have offered, I did not mean to criminate the administration. If my words bore such a meaning, I withdraw them. Such was *not* my intention.

MR. BIDWELL said, the memorials referred to two subjects. On the first, the memorialists state that they have been indicted for an offence, and represent certain facts, which they say are in their favor—they say the indictment is depending—this is begging the case. That while these facts remain to be tried before a tribunal of justice, where the whole benefit of evidence may be made use of either in justification or destruction of the charges, that the memorialists should resort to a petition of this nature on the last day of the session, is most extraordinary: and for the House to undertake to decide a question now pending before a court and jury, before whom any witnesses may be summoned, would be still more extraordinary. The other subject relates to the conduct of the judge in this particular case. If when this case shall be ultimately decided, the memorialists shall think themselves aggrieved, it will be time enough to come forward with their complaint.

MR. EARLY. The memorials have been presented at a time and under circumstances so extraordinary, as in my opinion, to call for, at the hands of this House, something more than is contained in the motion of the Gentleman from Kentucky. These peculiarities of time and circumstance have been already noticed by different gentlemen, and are of a nature so striking that they cannot escape the attention of any. I shall not, therefore, detain the House with any arguments, or with a detail of them. I rise for the purpose of offering a resolution which I think the occasion calls for, and in favor of which I hope the gentleman from Kentucky will withdraw his motion.

MR. EARLY then offered the following resolution:

Resolved, That the charges contained in the memorials of S. G. Ogden and William Smith are, in the opinion of this House, unsupported by any evidence which in the least degree criminates the executive government of this country—that the said memorials appear to have been presented at a time and under circumstances, insidiously calculated to excite unjust suspicions in the minds of the good people of this nation against the existing administration of the general government—and that it would be highly improper in this House to take any step which might influence or prejudice a cause now depending in a legal tribunal of the U. S.—Therefore, resolved, that the said memorials be by the clerk of this House returned to those from whom they came.

MR. LYON withdrew his motion.

MR. CLARK said this resolution was susceptible of division. He had no objection to the latter part of it, but he did not wish to give a hasty decision on the former, as he was not acquainted with all the circumstances referred to. He would therefore move to strike out the first part of the resolution.

MR. SMILIE. We are now to give a vote whether these charges are true or not. Believing them to be untrue, I shall vote against the motion to strike out.

MR. CLARK. I do not believe they are true. But it is not proper to condemn a cause unheard. These men think themselves aggrieved—they set forth certain charges, and we at once give our opinion that they are false. I can never agree to this course.

MR. DANA. These memorials contain a statement of certain facts in the nature of allegations against certain officers in this government. Whenever allegations of this kind are made, such language ought to be used as is best adapted to convey the ideas of the petitioners. These memorials contain two things. In the first place, they charge the executive of the United States with a participation in Miranda's expedition. As to this charge, I am fully sensible of the impropriety of the House interfering. Under a law of the United States the equipment of a vessel against a power with which we are at peace is considered as a misdemeanor punished by fine and imprisonment: and if general Miranda misled these men under a belief that the President or Secretary of State did countenance, though in fact they did not, this enterprize, they may, if found guilty by a jury, avail themselves of this circumstance, in mitigation of their fine and imprisonment. It does not become this House by any declaration to give an opinion on this point either one way or another. On the other point relative to the conduct of the judge, I am not so satisfied relative to the course to be pursued. Is not every man accused entitled to a fair trial? And if the charges are true, and the man guilty, and yet the judge has erred—he has abused his authority, I will not say perversely, but he has not pursued the usual course of administering criminal justice. As to this part of the memorial, therefore, I am willing it should lie on the table; while I am perfectly ready as to that part which respects the executive to reject it.

MR. ALEXANDER. I wish to be informed of the correctness of my impression, that the mover of the memorial prayed it should be printed. Before the House give their consent to publish such a voluminous piece of calumny, I should be glad to hear some reason assigned for it. At first blush, as has been represented by the gentleman from New-York, this appears to be an unjust and uncandid attempt to obtain the interfence of this House. I should be glad gentlemen would show us any case in which it would be right for this House to interfere while it is *coram judice.*

Mr. Alexander concluded with suggesting a modification of the motion of Mr. Early, which he afterwards withdrew.

MR. CLARK likewise withdrew his amendment.

MR. MASTERS. It is the first time I ever heard of a defendant under an indictment for a public offence, petitioning the representatives of the people to interfere and arrest him from public justice. It is a kind of imputation on this House.

The petitioner is accused of a breach of the law, and is called on to answer that accusation before the proper forum; it does not belong to this House to interfere with that tribunal; the constitution has set apart and defined the different powers.

The memorialists attempt to criminate the administration. The administration are not on trial before this House. If the district judge in the course of the examination and trial, acts corruptly, there is a proper time and manner of bringing him constitutionally before this House. We ought not to countenance the defendants endeavors to cast an odium on the court before whom the trial is depending, and the petition ought to be dismissed, in stronger language than is expressed in the resolution.

MR. J RANDOLPH asked for a division of the resolution down to the word "country" preceding the first dash.

MR. CLARK said he really felt for the dignity of the House—he had no hesitation to say that the petition was unsupported by evidence. But the journals would show that this was not the first instance that similar petitions had been acted upon. The petitioners thought themselves injured, and had a right to call for redress. In order to get rid of this difficulty he moved the previous question.

MR. JACKSON asked the yeas and nays, which were taken on the previous question, "shall the main question be now put," as follows—Yeas 74—Nays 15.

YEAS—Messrs. Alexander, Alston, Anderson, Bard, Barker, Bassett, Bedinger, Bidwell, Blake, Brown, Casey, Chandler, Claiborne, M. Clay, Clopton, Conrad, Covington, Crowninshield, Cutts, Darby, Earle, Early, Elliot, Elmer, Findley, Fisk, Fowler, Garnett, Gregg, Green, Halsey, Hamilton, Holmes, Hough, Jackson, Jones, Lambert, Lyon, Magruder, Marion, Masters, M'Creery, N. R. Moore, T. Moore, Jer. Morrow, John Morrow, Mumford, Newton, Olin, Pugh, J. Randolph, T. M. Randolph, Rea, of Pen. Rhea, of Ten. Russell, Sailly, Sandford, Schuneman, Sloan, Smilie, J. Smith, S. Smith, Southard, Stanton, Thomas, P. R. Thompson, Tracy, Trigg, Varnum, J. Whitehill, R. Whitehill, D. R. Williams, N. Williams and Winston—74.

NAYS—Messrs. Betton, Clark, Dana, Ellis, Ely, Lewis, Mosely, J. Nelson, Pitken, Quincy, Tallmadge, Tenney, T. W. Thompson, Van Rensselaer and Wadsworth—15.

The question was then taken on agreeing to the first member of the resolution—Yeas 75—Nays 8—as follow:

YEAS—Messrs. Alexander, Alston, Anderson, Bard, Barker, Bedinger, Bidwell, Blake, Brown, Casey, Chandler, Claiborne, Clark, M. Clay, Clopton, Conrad, Covington, Crowninshield, Cutts, Darby, Earle, Early, Elliot, Elmer, Findley, Fisk, Fowler, Garnett, Gregg, Green, Halsey, Hamilton, Holmes, Hough, Jackson, Jones, Lambert, Lyon, Magruder, Marion, M'Creery, N. R. Moore, T. Moore, Jer. Morrow, John Morrow, Mumford, Newton, Olin, Pugh, J. Randolph, T. M. Randolph, Rea, of Penn. Rhea, of Ten. Russell, Sailly, Sammons, Sandford, Schuneman, Sloan, Smilie, J. Smith, S. Smith, Southard, Stanton, Thomas, P. R. Thompson, Tracy, Trigg, Varnum, J. Whitehill, R. Whitehill, D. R. Williams, N. Williams, Winn and Winston—75.

NAYS—Messrs. Bassett, Dana, Ely, Lewis, Mosely, J. Nelson, Quincy and Van Rensselaer—8.

The yeas and nays on the second member of the resolution were—Yeas 70—Nays 13—as follow.

YEAS—Messrs. Alexander, Alston, Anderson, Bard, Barker, Bassett, Bedinger, Bidwell, Blake, Brown, Casey, Chandler, Claiborne, M. Clay, Clopton, Conrad, Covington, Crowninshield, Cutts, Darby, Earle, Early, Elliot, Elmer, Findley, Fisk, Fowler, Gregg, Green, Halsey, Hamilton, Holmes, Jackson, Jones, Lambert, Lyon, Magruder, Marion, Masters, M'Creery, N. R. Moore, T. Moore, John Morrow, Mumford, Newton, Olin, Pugh, T. M. Randolph, Rea, of Penn. Rhea, of Ten. Russell, Sailly, Sammons, Sandford, Schuneman, Sloan, Smilie, J. Smith, S. Smith, Southard, Stanton, Thomas, Tracy, Varnum, J. Whitehill, R. Whitehill, D. R. Williams, N. Williams, Winn and Winston—70.

NAYS—Messrs. Clark, Dana, Ely, Garnet, Lewis, Mosely, J. Nelson, Pitken, Quincy, J. Randolph, P. R. Thompson, Trigg and Van Rensselaer—13.

The House were unanimous in their vote on the third member of the resolution.

The yeas and nays on the last member of the resolution were—Yeas 71—Nays 14—as follow:

YEAS.—Messrs. Alexander, Alston, jun. Anderson, Bard, Barker, Bassett, Bidwell, Blake, jun. Brown, Casey, Chandler, Claiborne, M. Clay, Clopton, Conrad, Covington, Crowninshield, Cutts, Darby, Dawson, Earle, Early, Elliot, Elmer, Eppes, Findley, Fisk, Fowler, Garnett, Gregg, Green, Halsey, Hamilton, Holmes, Jackson, Lambert, Lyon, Magruder, Marion, Masters, M'Creery, N. R. Moore, T. Moore, Jno. Morrow, Mumford, Newton, Olin, Pugh, T. M. Randolph, Rea, of Pen. Rhea, of Ten. Sailly, Sammons, Sandford, Schuneman, Sloan, Smilie, J. Smith, S. Smith, Southard, Stanton, Thomas, P. R. Thompson, Tracy, Varnum, J. Whitehill, R. Whitehill, D. R. Williams, N. Williams, Winn, and Winston.

NAYS.—Messrs. Bedinger, Clark, Dana, Ely, Lewis, jr. J. Nelson, Pitken, jr. Quincy, J. Randolph, Russel, Tenney, T. W. Thompson, Trigg, and Van Rensselaer.

When the whole resolution was agreed to——Ayes 65.

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George Town, April 30—UGepNI&6w.

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June 6—tf

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June 6——tf

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May 30—6t

ELIAS B. CALDWELL,

ATTORNEY AT LAW,

HAS removed his Office, to the houſe lately occupied by Mr. LAW, on Capitol Hill.

Waſhington, July 26—tf

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June 2——6t

NOTICE.

IS hereby given that the ſale of property for TAXES due the Corporation of Waſhington, advertiſed for this day, is poſtponed until Friday the 20th day of June next, and if the taxes are not paid on or before the ſaid 20th day of June, the ſale will commence at 11 o'clock, A. M. at the City Treaſurer's office.

By order of the Council of Waſhington,

WASHINGTON BOYD,

Treaſurer of Waſhington City.

May 30—tdſ