the Spanish government wanted, he undertook to say, was that a request should be made by the government of this country for those men, and all the money required for this service was money enough to send an agent there and facilitate his return.

Nothing had been said by him, Mr. Emott said, of the peculiar sufferings of these men; but there were representations enough to shew that they were chained naked in a dungeon, without clothing and without wood. Some had died and others must die. He hoped, therefore, for the reasons which he had given that the committee would be satisfied that these men were not guilty of crime. If not guilty, he hoped there could be no doubt that they were a proper subject for the interference of the government.

Mr. Bacon observed that the conclusion which the gentleman from Virginia (Mr. Randolph) had drawn rested upon the idea that the men were guilty. If they were guilty they certainly should not receive the benefit of the interposition of the government of the U. S. They had no claim on the U. S. when considered as criminals or as men who had voluntarily engaged in this service. The report of the committee did not state this to be the case. I acknowledge (said Mr. Bacon) that they are guilty in some respects, having innocently transgressed the laws. If they are guilty in the eye of justice, I contend they ought not to have relief. The report of the committee states, that under a persuasion that the facts set forth by the petitioners were true, they were induced to submit this resolution. The committee had evidence which they deemed competent to prove that these men were not guilty men. In what respect then are they to be compared to Aaron Burr? No man will say that *he* did not proceed on his expedition with his eyes open, or that *he* could plead ignorance. The fact in relation to these men appears to be that they were inveigled; that their offence was involuntary, not as respected engaging in what they thought the service of the U. S but as to going abroad, for against their consent they were forced into the service. Therefore with great truth it might be said that they were scourged to the service. If this was the fact, as the committee appear to have believed, I ask in what their case differs from that of men taken captives by the Algerines? Those men taken by the Algerines are engaged in a lawful commerce; these poor men were engaged in an unlawful act, but not knowing it to be unlawful and believing it to be correct, they are as innocent in fact as those who act innocently. The gentleman says, suppose they were to return to their country, would they not be punished? If the facts as they state them are correct, as I believe them to be, I do not believe that they would be punished. The law does not punish a man because he does an act, but for the *quo animo* with which he does it.

I will remark to the House that on this subject we have not legal testimony. It is required scarcely in any case by the House, much less in a case situated so peculiarly as this is. These men are of all others in the worst situation for procuring relief. They are confined in a dungeon; they are poor men, of poor families, who cannot act in their behalf. I perceive that they have referred to persons to whom the House might refer to substantiate their statement of facts. One of these prisoners is a young man from the district which I represent who had friends able to assist him. They obtained such evidence as they could. Other persons whose evidence might have been of service could not be found. Mr. Bacon referred to depositions taken on this subject of persons who declared that they had enlisted unwarily, believing it to be for the service of the U. S. for three years at a certain compensation per month; that when informed that they were to go on board the Leander they were opposed to it, but that their suspicions were lulled by the assertion that they were merely going round to New Orleans in this vessel, where they were to be stationed.

Mr. B. said he held in his hand a letter from one who was engaged in the expedition, but was so fortunate as to escape, which stated that not more than two persons concerned were acquainted with the nature of the expedition, but believed it to be sanctioned by the government. The letter also stated the prisoners to be in the most wretched condition, lingering out a miserable existence under the distress arising from the want of clothes, light, fuel, bedding and means of intercourse with their friends. This statement, Mr. Bacon said, would be sufficient to draw the attention of the House to the men condemned to such an unparalleled fate. It would be very unfortunate, if from any fear of an impression which might be produced by its interposition of the agency of the government in the original plan of the expedition, these men should be suffered to linger in hopeless captivity. Believing, as he did, that the committee had correctly reported that these men were involuntarily participators in the expedition, he thought the hand of mercy should be extended to them.

Mr. Pearson—On this occasion, Mr. Speaker, I feel a sensibility which it is not my nature to repel—a sensibility which I trust is manly, not merely the evaporation of ordinary feeling, or of mistaken humanity; but an impression, confirmed by the dictates of reason, of justice, of honor, and bottomed on the solid basis of nature's best gift—*humanity*.

We, as the representatives of this nation, are appealed to for the relief of a few unfortunate fellow beings—citizens of our country, whose imprudence, or to say the worst, whose crimes have brought them to a situation at the recollection of which, the benevolent mind shrinks with horror—to the endurance of a punishment, in a foreign country, unknown to the humanity of our laws and the mild spirit of our government. Yes, sir, about thirty young men, citizens of your country, decoyed by the artifices and delusive hopes with which their ardent and youthful imaginations were flattered—led on by the example and patronage of men, by no means obscure, or, at that time, disreputable, embarked in an expedition, the destination of which, I am induced to believe, was to them unknown—not only unknown, but represented by their leaders to be agreeable to the authority and laws of the United States. These young men, having discovered, too late, the deception which had been practised upon them, after unsuccessful attempts at Hispaniola to escape, continued *involuntarily*, in an expedition, in which they were captured, sentenced and punished as pirates—sentenced to the most torturing of all punishments—to rigorous imprisonment and slavery, and are now groaning under the weight of their chains in the dungeons of Carthagena. We are supplicated to relieve those men, not by buying them, not by paying so much for each head, as has been required and complied with, in the case of captives taken by the savages of Algiers and Tripoli, but merely to express the wish of this country, to the Spanish nation, that those persons should be released, and that some small pecuniary appropriation should be made to effect this arrangement and restore those unfortunate and unhappy men to their native country. Sir, from the report of the committee, who have investigated this subject, and from the statement made by the gentleman from New York, (Mr. Emmot) I am induced to believe, notwithstanding the opinion of the gentleman from Virginia (Mr. Randolph) to the contrary, that those men are not guilty, at least, to the extent which some gentlemen seem to imagine.

It appears that the preparations for this expedition were by no means secret—they were made in the city of New York, in the face of day, and if not known to every body, at least to a great many. It appears also that the real object was not known to the persons who enlisted, some of whom are now the petitioners; that they were induced to believe the enterprise was not unlawful; they did not know the character, or even the name of their leader, until some time after they had embarked, and when it was not in their power to leave him, or even communicate to their friends. It will be recollected that statements have been made, which tend to produce a belief, that assurances were given to those unfortunate sufferers, that this expedition was not contrary to the authority and will of the government of the United States. And here it may be observed, that *impressions* did exist (and I confess the *impression* is not altogether eradicated from my mind) that some of the principal officers of this government did *connive* at, or at least were not entirely ignorant of the principal characters concerned, or the preparations which were making for this expedition. This impression arose, I presume, from a variety of circumstances, among which may be mentioned the apparent good understanding, if not intimacy, between general Miranda and some of the officers of government, the respect shewn Miranda by the President, at whose table I am informed he was a guest; from the open manner in which the expedition was fitted out; from the peculiar situation of affairs between this country and Spain, which left little doubt on the minds of many, that if war did not exist, there were strong grounds to believe that hostilities would soon commence. In addition to those, the circumstances which took place on the trial of Ogden and Smith, in the city of New York, had some tendency to strengthen the suggestion. In the course of that trial it will be recollected by every person who has attended to it, that one of the grounds of defence set up by the defendants was, that the expedition and enterprise was begun, prepared and set on foot, with the knowledge and approbation of the President of the United States and the Secretary of State. The disclosure of this ground of defence is sworn to by one or both the defendants, in an affidavit made to obtain a postponement of the trial, in consequence of the absence of the Secretary of State and some other persons who were subpœnæd to attend as witnesses in behalf of the defendants. It was also strengthened by the ultimate acquittal of those men. Other circumstances, which I have heard from gentlemen of respectability, could not fail of having some influence.

The conclusions, therefore, which I draw are—that if any of the principal officers of government had knowledge of the object and extent of this expedition, and those sufferers embarked from a conviction of this knowledge and from a belief that they were not acting contrary to the authority or wishes of the government, then they are not highly criminal, if criminal at all. If the officers of government did *not know* the object or extent of this enterprise, but were deceived, as to the preparations and object of this adventurous and artful commander; then how much more likely is it, that those young and ignorant men should become the dupes of his artifice and design.

But, sir, let us now turn for a moment to the darkest prospect in this scene, let us suppose all that can be imagined; let us admit that those men are really guilty; does it then follow that their crime is of so deep a die it cannot be washed away; cannot be expiated but by a punishment unknown to our laws and the mild genius of our government; this surely cannot well be; those young men are to be considered as merely secondary objects in this transaction; they are not of that description, who, from the influence of wealth, connections or intrigue, it would be dangerous to restore to the bosom of their country. On the contrary their sufferings have been such, as to convince them of the folly of their doings and their tales of woe, would deter others from engaging in like adventures.

The object of criminal law is rather to prevent the commission than punish those who have committed offences; and when that is likely to be obtained, even by mercy itself, policy and humanity step in and gently stay the hand of the executioner.

Sir, is it unknown, is it untrue, that offences of the highest nature have been committed against this government? And is it not equally true, that *pardons* have been extended, not only to the secondary agents, but to the principal offenders? Yes, sir, persons convicted of *high treason*, have been pardoned by the Chief Magistrate of the U. S. Nor do I believe, that any ill consequences have arisen; any sentiments of public indignation excited, by this extension of mercy.

Sir, if it be not proper to pardon in some cases, why give that power to your Chief Magistrate? Every state in the union has vested such a power some where, and in the state, which I in part represent, that power is frequently and beneficially exercised—indeed, it is seldom withheld for the first offence of a capital nature, unless in the case of murder or some very highly aggravated crime.

I contend, that the claim of those miserable men, for the interposition of their government, is in the nature of a petition for pardon. But, it is said, money is required—an appropriation is to be made. 'Tis true, the pitiful sum of 3,500 dollars is required—not the tenth part of a cent per man throughout the U. S. And altho' I am disposed to hold a strict hand over the expenditures of the government, and guard sacredly the pecuniary interests of my constituents, yet I must not forget their honor and their generosity. I should do every man of them injustice, if I did not take upon myself the responsibility of this just, this humane appropriation. Upon the whole, I am inclined to believe those men are not highly criminal, but whether guilty or not guilty, they have suffered enough. The honor and humanity of the nation demands their liberation. They should not be suffered any longer to linger out a dreadful existence, in the dark, chilly damps of a Spanish dungeon, writhing under tortures unknown to the mild precepts of our religion, and unsanctioned by our laws.

Mr. Smilie said that the Spanish government were already all alive to the actions of this country, and no doubt jealous of any appearance of its participation in Miranda's, Burr's, or any other expedition against its territories; and no doubt their jealousy would be increased when they heard a declaration that there had been in this government a disposition to injure that nation. And shall we now (said he) by an act of this kind confirm those suspicions which are already entertained? And will you involve the nation, under these circumstances, by an application in behalf of these men? This is sufficient reason with me to vote against the resolution. It is better that these men, supposing them to be innocent, should bear with private hardship, than that the public should receive an injury.

Mr. Pearson observed that he regretted to hear the misrepresentation given to his language and the injustice done to his motives—nothing was further from his intention than to make any *positive* charge of criminality against the officers of the late administration in relation to this transaction—he had only stated *impressions*, the grounds of which were long ago before the public. His principal object was to demonstrate the innocence of the men who now call for mercy, and to shew that if the officers gf government, with all the lights before them, were deceived by this artful adventurer, how much more easily could the deception be practised on those ignorant individuals.

Mr. Fisk said he was glad to understand the explanation given by the gentleman from North Carolina to shew that this case did not reflect upon the government of the United States; because he said he should suppose it a reflection upon the understanding of any man, more especially of a member of this House, if he could, with a full knowledge of all the circumstances, for a moment believe that the government of the United States did participate in, know of or in any way sanction the enterprize. I take this opportunity (said Mr. F.) of expressing my approbation of the report and of filling up the blank with any sum deemed competent to relieve these unfortunate sufferers from a situation more wretched than my power over the English language will suffice to describe. It is said that these men are guilty—& what is there to support this belief? Nothing but the declaration of the member (Mr. Randolph) who asserts it. What constitutes guilt? The *quo animo* with which an act is performed. What evidence is there of guilt in this case, more than that these men were taken on the coast of the Spanish Maine in an enterprize against that colony? Does it therefore follow that they were guilty? If they were surprized into this situation against their wishes, against their powers of resistance, they were not guilty. In giving my opinion on this subject I will say that it never fell to the lot of mortals to be more perfidiously betrayed, more cunningly dealt with or more harshly treated than those who now petition their country—*their country*, I say, because they are entitled to relief from us, unless they have forfeited their right by this act.

Only one word will I say of the acquittal of Smith and Ogden; the perusal of the evidence, arguments and verdict of the jury in that case has long ago convinced my mind not only of the propriety but of the necessity of instituting an enquiry for the purpose of ensuring an impartial trial by jury.

It may be and has been asked how it was possible that a ship of this description could be fitted up in the face of day in New York without the knowledge of the government or its offisers. The evidence on the trial will answer this question. When it is recollected that the vessel was owned by Smith and Ogden, that it had been employed for some years in carrying on a forced trade with St. Domingo; that the vessel was armed, and that her compliment was 120 men; and in addition, that one of our revenue officers was concerned, it is no longer a cause of surprise. But the revenue officer acted with great caution as it became necessary to further his design or that of Miranda; for, had their intentions been known in the city of New York, they would have been defeated. Mr. Smith therefore engaged these men, not in this enterprise, but, as they honestly believed, in the service of their country. They understood that there were some to go to Washington and guard the mail, others to go round to New Orleans, and for various purposes; but it was never intimated to one of them that they were to be employed in an hostile expedition against any nation whatever. It was no very difficult matter to cover such an equipment. Application was made to the insurance office to have insurance done, not for a certain place but for a certain latitude. A considerable quantity of arms that were on board were got on board unknown to the government or to the officers of the port, as they were not inserted in the manifest. It was unknown to the sufferers what was the destination of the army till the 19th of February, when they made the island of Jacquemel. To their utmost astonishment they then found themselves driven in a different direction from that which they expected. They remonstrated and attempted to escape, but in vain.—They were compelled to go on board the Leander, under the authority of Miranda and Capt. Lewis. Another circumstance of weight in their favor is, that, in the trial which was had at Caraccas, the evidence produced against them was not sufficient, in the opinion of the Spanish government, to convict them of having knowingly taken a part in this business. The officers being accessary to it, were executed. But, inasmuch as it was necessary to hold up an example, not so much to foreigners as to their own citizens, it was found necessary to punish and confine these petitioners. If it appears to this committee that these men are innocent, are we not willing to interpose for their relief? If I did for a moment believe that they were guilty or had any doubt that they were innocent I would not advocate their cause. But, believing, as I do from a thorough acquaintance with the facts, that they were entirely innocent of any intention of carrying on a hostile expedition against any nation or against the laws of their country, that they were betrayed by the arts of men who ought to have suffered more than they yet have, I am willing to assent to this resolution.

Mr. J. G. Jackson said he recollected that when the subject was under consideration before, he had an objection to the motion; that he saw an evident impropriety in squandering money on these persons, whilst the old soldiers of the revolution were yet unprovided for and in distress. But, said Mr. J. if the statement made by the gentleman from North Carolina (Mr. Pearson) be correct, we ought to indemnify them. There are cases in precedent. Capt. Little made a mistake in the character of a national vessel, and the government remunerated the expence occasioned by the error. If the government has by any connivance or act of theirs encouraged an armament within the United States, they ought not only to indemnify the sufferers but to make a full enquiry into the facts—I do not know the method of doing it, but I believe if there was any manner of bringing the gentleman to the bar to exhibit and substantiate his charge, it ought to be done. I would ask if any new testimony is forthcoming in addition to that on which the House at the last session made a solemn decision?

Mr. M'Kim said that he had not the honor of a seat in the last Congress, and consequently could not be expected to have any knowledge of what was then done.

Mr. Bacon said that the gentleman from Virginia (Mr. J. G. Jackson) could not be serious in his observations as to what had fallen from the gentleman from North Carolina. If indeed the gentleman would state a thing upon his own responsibility in a form in which the House could act upon it, it ought to be noticed. He believed however that the gentleman would not undertake to make such a statement; he must have too much respect for himself to do it. Mr. B. said he believed that if the proposition for the relief of these poor fellows was lost, it would be by means of the gentleman's speech in their favor, and he was extremely sorry for it.

Mr. Macon expressed his disapprobation of the manner in which Mr. Jackson had noticed Mr. Pearson's remarks. He regretted much that his colleague had used such words; and he was sorry that such comments had been made upon them. He had heard such things before; he heard them last session, and those who took part in them were as tired of the business as those who were compelled to hear them. It is well known (said Mr. M.) that I am not in the habit of making invidious remarks; but I will observe that my colleague (Mr. Pearson) has not long taken his seat in the House, and, being a young member, that a little forbearance on his part would be very proper.

[Mr. J. G. Jackson said he had not reprehended the gentleman's remarks. He meant to say that if they were correct (and the House ought to enquire into their correctness) he should come to a very different conclusion on this proposition from what he otherwise should.]

Mr. Macon said it had not been the practice of this House to call to the bar of the House any member for what he should say in debate. If I (said Mr. M.) believed that the President had connived at an act which I do not hesitate to avow that I believe he did not, I should feel myself justified in stating it. I for my part never will give one cent of money out of the pockets of those whom I represent, for the relief of those who would enlist with Miranda or any other foreigner. Gentlemen may talk about the innocence of these men. I do not believe that they were innocent. They knew what they were about; the papers of the day were filled with accounts of the great fortunes which they were to make, the hope of which no doubt induced great part of them to go on the enterprize. In proportion