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FROM THE NATIONAL INTELLIGENCER.

The following part of the proceedings of the District Court of Kentucky was omitted in our last from a want of room.

The renewal of the motion by Mr. Daviess for a grand jury, being communicated to Col. Burr, he repaired to Frankfort where he arrived on Sunday week.—On Tuesday following Col. Burr appeared in court; the grand jury also appeared and the judge delivered the charge which has been published in the Palladium.

Mr. Daviess informed the court that he was not ready to proceed, and would not proceed, till *all* the witnesses were on the ground; that two of them had not yet appeared, and intimated that Col. Burr's presence was not required, and was rather ostentatious than useful or proper.

Mr. Clay and Mr. Allen suggested that the grand jury being sworn and charged had a right to meet at such times as they pleased, and were not the mere machines of the district attorney. Mr. Clay in answer to the remarks which tended to reproach Col. Burr for his voluntary appearance, was animated and ingenuous and commanded the assent and admiration of the audience. The judge declared that the grand jury had a right until discharged, to retire to their chamber and proceed to enquire of any matters within the sphere of their duty. They accordingly retired and after some time returned into court, and reported that they had nothing to present.

Mr. Daviess informed the court that he should have something to lay before them the day following. The court then adjourned after having instructed the jury to appear on the day following at 10 o'clock.

On Wednesday the 3d inst. the court met, and the grand jury appeared. Col. Burr was also in court; the judge then took occasion to say, that the former grand jury had been discharged on the request of the district attorney, without proceeding in the enquiry, which on reflection he deemed improper, as on farther consideration, he found his opinion had not been sufficiently matured. Mr. Daviess then called to him the foreman of the grand jury, gave him a paper and said in an audible voice, "This is an indictment against general John Adair." It should be noted that the absence of general Adair was on the preceding day assigned as a reason by Mr. D. why he would not proceed against Col. Burr.—Before the grand jury withdrew, Mr. D. said he should claim it as a right to go into the room with the jury; and on this claim of right, a debate of some length ensued, in which the ground taken by Mr. D. was contested with ability and success by Messrs. Clay and Allen.

As soon as Mr. Burr's counsel had closed their arguments on this point, he arose and addressed the court in a neat, pertinent and argumentative speech.—He called to the recollection of those present the course this business had taken. On the first intimation of a charge being exhibited against him, he had hastened to present himself before the court. He had done so a second time without compulsory process, and asked if this mode of proceeding evinced a desire to smother enquiry, as the attorney's zeal had induced him to intimate. That gentleman would recollect he had even assisted him in procuring the attendance of witnesses. He wished an investigation to take place, and he hoped it would be a satisfactory one; but at the same time conducted agreeably to the known and established rules of law. For if a departure be made therefrom in the present instance on the plea of its being an extraordinary case, it would lay the foundation of a precedent that would be highly dangerous to the liberty of the citizen. He observed that he had been for many years attorney general for a respectable state, but had never attempted to claim the right of examining witnesses before the grand jury—nor did he ever meet with a precedent that could justify it in all he books he had read. He presumed the attorney ought to be satisfied with having the choice of the witnesses which he would send to the jury.—Mr. Burr said he considered the institution of a grand jury as intended to shield and protect the reputation of a citizen from the arm of power; but if the doctrine contended for by the attorney for the U. S. prevailed, it would become an engine of oppression. He conceived that if one party went into the jury room, the other might also—and should a difference of opinion take place upon the questions to be put to witnesses, the court must be called to decide. This, therefore, would in his opinion totally destroy the object in view, by the retirement of the grand jury, and the examination might as well be had in open court. Mr. B. considered the jury as fully competent to put the necessary questions to the witnesses; and hoped that the regular course of proceeding would not be departed from, because the attorney chose to call this case an extraordinary one.

The judge pronounced against the claim of Mr. D. as being without precedent, and of dangerous example. Mr. Daviess then declared that if he had known this privilege would have been refused him, he would not have asked for a grand jury.

On Thursday morning gen. Adair appeared in court—Mr. Daviess asked leave "to hand to the grand jury certain sets of interrogatories which he had prepared for certain witnesses;" this was immediately assented to on the part of col. Burr and gen. Adair, the jury being informed that it was in their discretion to make use of them or not as they might please. After some time the jury came into court and returned the bill preferred against gen. Adair, "*not a true bill.*" Mr. Daviess then handed to the foreman an indictment against col. Burr, and then withdrew.

On Friday the 5th, the court met at the usual hour. A buz ran through the court room that the grand jury had sent for other witnesses—witnesses not discovered or offered by the district attorney. Conjecture and expectation were alive, but were succeeded by astonishment, when Messrs. Wood and Street, editors of the Western World, were brought into court and sworn as witnesses, and severally sent to the grand jury. These editors had published that they were intimately informed of all col. Burr's projects, and particularly that they knew the terms of his contracts and engagement with John Brown and gen Wilkinson, and that they would at a proper time lay them before the public—It seems the grand jury, deemed this a proper time and called them to testify—To what effect appears from the result.

About two o'clock the grand jury came into court and returned the bill preferred against Col. Burr, "*Not a true bill.*" The foreman then informed the court that considering how greatly the public mind had been agitated and disturbed by the subjects which had been under the consideration of the grand jury, they have thought it their duty to prepare a special report, which they had directed him to lay before the court.

The district attorney then informed the court that he had nothing further to lay before the jury, and they were dismissed.

The witnesses on this occasion were more numerous than on the former.—Mr. Davis Floyd, on account of whose absence the first enquiry was postponed, was also present—the croud of attendants was greater—expectations and alarm much higher. But the effect of these proceedings has been to give to Col. Burr a distinction and influence, which in the ordinary course of events he could not have attained by many years of uninterrupted residence. We hope and believe that these advantages will be used by him in such a manner only as shall promote the honor and interest of the country.

Congress.

House of Representatives.

FRIDAY, JAN. 2.

Mr. Dana observed that prosecutions, he understood, were depending in the courts of the U. S. not arising under any existing statute or treaty of the U. S. but prosecutions sustained at common law. In four cases warrants had been issued at the order of the court, the parties arrested and held to trial. Two of these prosecutions were against printers for publications which had appeared in their papers; two against clerical gentlemen for words uttered by them. The charges extended to various questions respecting political conduct, morality and religion. It was a subject of vast importance whether this extensive range should be allowed to a public accusor holding his place at the will of the executive of the U. S.

At common law a libeller may be subjected to fine and imprisonment according to the discretion of the court, to which might be added the mutilation of the ears, according to the doctrine of Coke, in the Star Chamber. Security may also be required for good behavior for his whole life. To the amount of fine there was no limitation.

There was also in these prosecutions involved an interesting question as to evidence. Shall the truth of the charges, once established, be considered as conclusive evidence, however pure the intentions of the accused may be proved to have been? With this question was connected the provisions of a celebrated declaratory statute carried through the British parliament by a distinguished man, as implicating the point how far this statute affected the common law in the U. S. There was likewise another question, viz. whether the person charged with having uttered slanderous words shall have liberty to prove the truth of what he uttered. This liberty was denied by the courts of Star Chamber in England. Such had been the fact in the case of Zenga in America, and in a case which had recently occurred in one of these states in the second circuit of the U. S. on the trial of Croswell.

Mr. C. concluded by observing that he had suggested those ideas as an apology for asking that the subject might be examined; and then offered the following resolution;

Resolved, That a committee be appointed to enquire whether prosecutions at common law should be sustained in the courts of the U. S. for libellous publications or defamatory words touching persons holding offices or places of trust under the U. S. and whether it would not be proper, if the same be sustained, to allow the parties prosecuted the liberty of giving the truth in evidence, and that the committee report by bill or otherwise.

Mr. Dana moved to refer the resolution to a committee of the whole.

Mr. Bidwell said the object of the resolution appeared to be merely the appointment of a committee to *enquire*. If the mover would so modify it as to obtain a discussion of the principle involved in it, he should have no objection to it. It did not appear to him in order to refer a resolution for the appointment of a select committee to a committee of the whole house.

Mr. Dana insisted that the resolution was clearly in order; and that it was unnecessary to give it the form of a specific proposition, to insure to the subject a full discussion in committee of the whole.

Mr. G. W. Campbell remarked that if this resolution was referred to a committee of the whole, the only question that could be presented to them would be the expediency of referring it to a select committe to make the proposed enquiry. The most regular and proper course was to refer the resolution in the first instance to a select committee, and afterwards to refer their report to a committee of the whole.

Mr. J. Clay said that the objection made to referring this resolution to a committee of the whole, was that it was best to refer it in the first instance to a select committee to settle the principle. But this would be to invert the usual course pursued in the House, which was first to settle principles in a committee of the whole. He had understood that in the second circuit of the U. S. prosecutions and indictments had been made at common law. In times past, which he hoped would never return, a sedition law had been passed. That law gave every man accused the liberty of giving the truth in evidence. He understood that, under the common law, after an indictment was preferred, the truth was not permitted to be given in evidence; and that under this doctrine they would therefore be worse off than under the sedition law. He hoped the resolution would be referred to a committee of the whole to make the proposed enquiry.

Mr. Bidwell agreed that a committee of the whole was the proper place for settling principles. If the resolution was so framed as to answer this purpose, it should have his approbation. But the only question, in its present form, was merely for the appointment of a select committee to investigate the subject, which investigation would be most properly made in a committee of the whole.

Mr. Quincy said that the objection of his colleague seemed to be to the word *enquire*. Mr. Q. thought it was most proper for the House in committee of the whole to determine whether it would be expedient to appoint a select committee to enquire. If it should be decided that no such enquiry is expedient, there would be an end of the business. If a contrary decision were made, then a committee might be appointed to make the enquiry. The gentleman would not say that the resolution did not contain a principle of vast importance, well worthy of investigation. In his opinion it was best first to settle the principle in committee of the whole, and then instruct a select committee on the nature of the enquiry, and the degree to which it should be made.

Mr. Eppes said he should vote for a reference of the resolution to the committee of the whole, although he believed it was not draughted in such a form as it should be, to insure a discussion of the principles involved in it. If he understood it, it would reduce the House to the necessity of discussing the question, which had been heretofore discussed, whether the passage of a law giving a man a right to give the truth in evidence, would abridge his rights. He could have wished the gentleman from Connecticut to have stated a specific proposition, such as that the common law of England is not a part of the law of the U. S. and that in all prosecutions it is the right of a citizen to give the truth in evidence.

Mr. Eppes said he wished the gentleman would go further, and offer a resolution to enquire into the official conduct of any judge who had dared to institute such prosecutions as had been instituted. He would have no objection to going a step farther, to impeaching him and voting for his removal.

Mr. Eppes said that although he should vote for the reference of this resolution, he could not but remark that it was extraordinary for the gentleman from Connecticut to make such a motion. Suppose the gentleman were to offer a resolution for appointing a committee to enquire whether a citizen of the U. S. had a right to the privilege of the habeas corpus act? Would not such a proposition be deemed most extraordinary?—But to shew that he was not afraid to meet the question, once already agitated in this country, he was ready to refer the present resolution, as well as to enquire into the official conduct of any judge who had practiced the doctrines mentioned by the gentleman from Connecticut.

Mr. Dana said he would explain to the House the reasons which had induced him to submit the resolution in its present form. In the observations he had offered, he had avoided all allusion to the past questions which had been agitated in this country. He did not wish to present the proposition in its outset, in such a form, as might give offence to any part of the House: but in such a form that the House might, after a deliberate investigation of the subject, express their opinion upon it. He had supposed it would be clearly in order, in the committee of the whole, to move an amendment, declaratory of principle, instead of referring the enquiry to a select committee, in case that mode should be deemed most eligible.

Mr. G. W. Campbell did not wish it to be understood that he had any objection to the question coming before the House. On the contrary, if doubts existed of the right of the citizen in any