No. 40366 not placed after No. 40376

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Copy of a Minute by the Board of Admiralty dated 1st January, 1805 – transmitted to Mr Markham Jan.y 3d

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The Board having taken into their consideration a Letter from the Navy Board of the 29th October last, in which it is stated that "a disclosure had been made that one of the Members of that Board Mr Markham kept a Memorandum Book, wherein he allows, that he sets down circumstances which occur at the Board, & has also inserted therein words which he alledges to have been made use of by the Comptroller upon a particular occasion" which Book Mr Markham has refused to deliver up or to destroy, upon being required so to do – & having also weighed what that gentleman in a letter to their Secretary dated the 31st December has stated in his justification; are unanimously of opinion that as the execution of the duties of the Navy Board must be materially impeded by the feelings of mistrust which such a proceeding on the part of one of its Members is calculated to excite, and the public Service thereby injured, that it is become expedient in order to re-establish the confidence & harmony which are so desirable, that Mr Osborne Markham be immediately removed from the Navy Board –

Being at the same time disposed to believe that the conduct of complained of proceeded rather from Indiscretion than any bad Intention, they recommend that he be appointed to some other situation in His Majesty's Service, the Emoluments of which are not inferior to those which he at present receives —

Board 23. October. 1804.

The Comptroller having stated to the Board that he has been given to understand, that a Member of the Board keeps a private Book, wherein words are taken down, without the knowledge of the Board or of the Individuals; and Mr Markham one of the Members having allowed to the Board that he does keep a Memorandum Book, wherein he sets down circumstances which occur at the Board, and has also set down the words made use of by the Comptroller upon a particular occasion – The Board considering a proceeding of this sort perfectly irregular & may have a dangerous tendency, if their words should be produced against them, without having an opportunity of knowing whether the words set down, were or were not the words they made use of, think it proper to call upon Mr. Markham, to produce his Book to the Secretary of the Board, in order that each Individual may be informed of what has been set down therein as words coming from him –

Mr Legge — Is of opinion the book should be produced –

Sir F Hartwell — Is of opinion such a book should not be kept, but if kept, it should be produced.

Mr Gambier
Mr Harwood.
Sir W. Pole
Sir J. Henslow
Mr. Duncan
Sir Rx. Hamond
} Are of the same opinion with Sir F. Hartwell –

Mr Markham being called upon to produce the book, replies:

This is a private Memorandum book containing justification of my own conduct, when I have had the misfortune to differ with the Board, and my reasons for not signing papers - In the course of these notes I had occasion to take the words of the Comptroller where applied particularly and personally to myself - As private I do not produce it - Whenever words upon search shall appear taken from a Member, to that Member will I give a copy in writing - but I do not at present recollect an instance, except that stated by me, when I repeated the words which I was taking down, with notice that I did so -

Question - Does any Member of the Board recollect that Mr Markham stated his intention to take down the words of the Comptroller at the time mentioned?

Answer - It is not recollected by any Member.

Question - As Mr Markham has declined producing the Book, does the Board think it necessary to take the sense of the Admiralty Board upon the subject, whether in their opinion the book should be produced; unless Mr Markham will consent to the book being locked up and the question adjourned till tomorrow -

Question to Mr Markham - Are you willing to

lock up the book and adjourn the question till tomorrow?

Answer - I have not any objection, and will give an answer tomorrow.

The Question is according adjourned till tomorrow.

Board 24th Oct. 1804.

Mr. Markham wishes the Secretary to furnish him with a copy of the Board's minutes of yesterday, being as he conceives the charge against him, and time to give a written answer thereto.

Mr. Legge Is of opinion that in the present state of Mr. Markham's health it is better not to agitate the question - but says he objects to giving Mr. Markham a copy of the minute, unless upon an undertaking from him that no person, not of the Board, shall be permitted to see it.

Sir J. Hartwell Is of the same opinion with Mr Legge, but at present is not for allowing a copy of the minute.

Mr. Gambier. I cannot think there is any charge against Mr. Markham, but (that merely upon the confession of Mr. Markham himself that he keeps such a memorandum book as the one pointed out by himself) he is only required by the Board to say whether he will or not produce the Book, and consequently I do not see the smallest necessity for giving Mr. Markham

a copy of the Boards minutes, more especially as the question was adjourned from yesterday, merely with a view to give Mr Markham time to consider whether he would or would not comply with the Board's requisition.

Mr Harwood — Is of opinion time should be given Mr Markham, but objects to a copy of the minute being given.

Sir W. Rule — Is of opinion Mr Markham should not be furnished with a copy of the minute.

Sir J. Henslow. — Is sorry Mr Markham could not give his answer today - "I do not consider it a charge." objects to a copy of the minute being given.

Mr Duncan - — I am of opinion no copy should go out of the Board.

Sir Wm. Hamond. — I certainly object to Mr Markham being furnished with a copy of the proceeding of yesterday, as the Board only met for the purpose of receiving Mr Markham's answer, whether he would or would not produce the book. If Mr Markham states to the Board that his ill health disqualifies him from giving his answer to day, I should recommend to the Board to give him two or three days to consider of it.

Mr Markham refuses to bind himself to any conditions.

With a view to bring the matter to a speedy termination a Member proposed that Mr Markham should throw his Book into the fire, upon a promise to be made by

by Mr Markham, not to keep a similar one in future, the same being unanimously recommended by the Board to Mr Markham.

Mr Markham answered "that conscious of his own integrity attacked by the present motion, he cannot consent to a measure, which would be a confession of guilt on his part."

Mr Markham appearing to labor under bodily indisposition, the Board resolve to adjourn the further consideration of this subject to Friday next, in the hope that Mr Markham may then without inconvenience to himself give his determination, as well on the point stated in the Board's minute of yesterday, as on the proposition made to him today, in respect to his burning the book.

Board. Friday 26 - Oct - 1804.

Mr Markham is asked for his answer & tenders a paper which he says is his answer, and which he desires may be read to the Board, and it being put to the vote whether it should be read, the Board decided that it should not, as a verbal answer, yes or no, whether the book should be produced or burnt was all that was required.

Question put to Mr Markham - Whether he would give a verbal answer.

Answer - "The Board's proceedings against me are in writing. I have tendered my answer."

Question to Mr Markham - Whether he will or will not produce the book.

Answer - I have tendered my answer.

Upon the representation of Mr Markham that his written answer was intended for

conciliation, the Board determined that it should be read -

The paper being accordingly read, the Board do not consider it to be of a conciliatory nature, but a refusal to comply with their resolutions -

Question - As Mr Markham by his answer has refused to produce the book, does the Board mean to be satisfied with that refusal, or will they solicit the Lords of the Admiralty, to determine upon the subject -

First Resolved - That while such a book is known to exist, and is kept secret from the Board, the freedom of opinion and debate is very much impeded -

Second - Resolved - That we conceive it to be perfectly contrary to the usage of all other Boards under his Majesty's Government, that such a book should be secretly kept by any one Member thereof -

Third - Resolved - To apply to the Lords Commissioners of the Admiralty.

It was submitted by one of the members to the consideration of the Board - Whether the Board understood the passage which Mr. Markham read from his book to the Board in the Comptroller's absence to have been inserted therein, as the words uttered by the Comptroller upon a particular occasion -

The members of the Board who were present declare that was the impression upon their minds.

Question - Whether they were of opinion that they were the words which the Comptroller used upon that

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or any other occasion at this Board?

Answer Mr Legge — "At the time they were produced "I thought and expressed my opinion (as I believe) that the Comptroller's sentiments were much "too strongly stated in the memorandum" —

Sir F. Hartwell — "I have no recollection of the "circumstance, and rather think "I was not present."

Mr Gambier — "I am confident they were not."

Mr Harwood — "I was not present at the discussion of the subject. A

Sir W. Rule — "I remember saying at the time that I thought it was impossible the Comptroller could have made use of such words."

Sir J. Henslow. — "I cannot recollect enough of the circumstances, but I thought it was impossible that the Comptroller could have made use of such words".

Mr. Palmer. — "I do not recollect a syllable about it."

Mr. Duncan. — "They were neither the Comptroller's words, nor do I think his meaning which I said at the time."

Sir Ch. Hamond. — I declare I never made use of words to the effect as communicated to me.

a copy (signed) R. A. Nelson)

A that is when the words were in the first instance said to have been made use of by the Comptroller.

Mr. Markham's Minute read at the Board. Oct. 26. 1804 –

The Board having refused to give me a copy of the charge against me, & having come to a resolution that I should not be permitted to take out of the Board room, even an extract of six lines, which I had made, containing the substance of the charge, I can only reply to it generally, as far as my recollection enables me —

It has been my misfortune to differ in opinion with the Majority of the Board, not only on the expediency of particular measures of great importance, and the mode of carrying them into execution, but also upon the general principle that governed them — On these occasions there being no book, nor any other means whatever, by which I could record my opinion at the Board, I have withheld my signature conceiving that by signing a document contrary to my opinion I thereby should be pledged to the Public as having approved the measure —

Upon every occasion when my sentiments have not coincided with those of the Majority of the Board, I have fully, and fairly stated them, and finding myself in a Minority have on various points made minutes of the particulars of the transaction, with the view in the honest discharge of my duty to the Public, of being able as well to justify my own conduct and opinions at any future period, as to preserve a consistency therein and to aid the Board in preserving the same —

I have good reason to know, that such is neither

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an unprecendented or unusual transaction, the propriety, nay absolute necessity of which has already occurred to me, having been called upon (together with another Member of the Board) by the Lords of the Admiralty to account for my individual conduct at the Board, in having withheld my signature to a measure of the greatest national importance which had the sanction of the Majority of the Board.

The Memorandum Book which I am accused of keeping, and which has never been out of the Board room, contains the grounds & principles on which I have acted on various occasions, and naturally as incident thereto the grounds and principles upon which I considered them to have been opposed and to which I have objected, together with observations made in order to aid my memory in the discharge of my duty; the great use and benefit of which has already been experienced & was acknowledged by the Board in the case of Mr. Evans the Contractor for Timber, & had the recollection of all the circumstances which attended this person been brought before another Committee, even during the present week, I am persuaded the correspondence would not have stood as it now does — to which it is only necessary for me to add, that if it be not wrong to quote & bring to the recollection of any Member what he may have formerly urged in support of a contrary opinion, it is not material whether it be done from unassisted memory, or from written memoranda, excepting that in the latter case, it cannot fail of being more correct —

I am further called upon to pledge my word that I never will make any private Minute of Public transactions at

at the Board, wherein I am implicated, & for which I may be as I already have been called to account; were I to consent to such a proposal I conceive that I should seal my own dis-honour, & sacrifice the Public interest in a most essential degree.

No person can lament more than I do, that an occasion should have occurred, on which a sense of duty has obliged me to differ in opinion with my colleagues: my reasons for dissenting, when it has unfortunately happened, I have always freely & fully stated, & feeling that I am actuated by no motive but the Public good, shall continue to do so without any apprehension lest the words in which my opinions are conveyed, & the opinions themselves should be brought forward against me —

I am not so presumptuous as to imagine that I am not liable to errors, & shall cheerfully correct those which my superiors may think I have committed. It is my wish at all times to act in unison with the other members of the Board; but I cannot do it, when a compromise of duty would be the consequence of my forbearing to dissent from a measure proposed —

I must repeat that the minutes or observations which I am accused of having made are in my private keeping and not removed from this Office — they are taken to assist me in the discharge of the duties of my station, & for my own justification, & neither have, nor do I conceive, they can possibly have the consequence of controuling the freedom of debate, as I believe is stated in the charge against me —

As the Board have signified to me their intention in case I shall persevere in a refusal to deliver up or destroy my private Memorandum book and to pledge my honour not to make Minutes in future to lay the matter before the Lords of the Admiralty, I shall reserve for their Lordships consideration what I may have further to urge on a subject so deeply interesting to me, both in respect of private honour & public duty, and have the fullest reliance on the justice of their decision —