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Congress of the United States.

HOUSE OF REPRESENTATIVES.

SPEECH OF THE HON. MR. PEARSON, Upon Mr. Ely's last Non-Intercourse Bill.

It is but seldom, Mr. Speaker, I address you, especially on subjects of the nature and importance of that which is now under discussion. Perhaps, on this account, I may not be the less entitled to your indulgence and the attention of this assembly.

I am not so vain, as to indulge the hope, of being able to cast much additional light on the momentous subject before us; and from the indications which are but too plainly perceived, of the determination of a majority of this house, to pass this bill with all its imperfections on its head, I despair of obtaining within these walls, a single convert to my opinion: but sir, the high, imperious voice of duty, summons me to an exertion, and for my country, my constituents and myself, I am bound to obey. I embrace the present moment with more cheerfulness than I should have done any preceding period of the debate; because I feel no artificial warmth, no excitement, except that which flows immediately from the subject. My feelings naturally ardent, have, it is true, been much quickened at various stages of this discussion, and sir, I am much indebted to the gentleman from Virginia (Mr. Gholson) who last addressed you, for having aided me much in reasoning that temper of mind which alone ought to be manifested in our deliberations. The calm, dispassionate, and unassuming address of that gentleman (Mr. G.) deserves my approbation, and I give it freely, but as for the truth of his premises, the soundness of his logic and correctness of his conclusions, they are left to the sanction of those whose perceptions are very different from mine. In the course of my remarks, some of the most prominent observations of that gentleman will not escape my notice.

Mr. Speaker, no nation can be great, prosperous and happy, or if it is, can continue that greatness, prosperity and happiness long, unless it is governed and directed by the sound principles of justice, honor and impartiality; and more especially, should those principles be regarded in a Republic, whose very base is virtue, and whose support is the aid and approbation of honest and honorable men. The instant this foundation and this support are torn away, the superstructure crumbles into ruins; the elegant fabric of liberty is seen no more, anarchy with all its deformities, or despotism with all its horrors raise their hideous crest, pull down the temple of liberty, and give chains to its votaries. It is to be hoped, Mr. Speaker, that this state of things will not be the result of the present measure; but when connected with the proceedings of this government for several years past, and particularly with something which has been lately done, but which I am not at liberty to name, my mind is filled with dreadful forebodings of our fate, and no slight apprehensions for the character of the nation, and the best interests of the people.

Being opposed to the principles of this bill, and having no confidence in the reasons or pretences, by which it is attempted to be justified, I shall not trouble you with an exposition of its particular details, however novel, arbitrary, and impolitic they may appear. The bill proposes substantially a revival of that system of our commercial restrictions, under which the people of our country have so long and severely suffered. It substantially denies all intercourse with Great Britain and her colonies, by excluding from our ports British vessels of every description, and the products and manufactures of that nation of every kind, and to whomsoever they belong; whilst at the same time, every possible indulgence is granted to France—her vessels, armed and unarmed, her products and those of the nations which she has subjugated find no restraint from us.—Here let me remark, that as to those two great contending powers, whenever their interest, or the interests of either of them come in contact with the interests of my own country, I feel no preference, I make no discrimination; my first best wishes ever are at home. I now solemnly appeal to gentleman, why shall we, at this moment, make this marked distinction? Why shall we take this hostile attitude against G. Britain, and open our arms to the embrace of France? when by doing so, we must inevitably afflict our own people, and depart from that character of neutrality, which has been the alleged boast of the present and late administration; and which alone, has afforded those in power, an apology with the people for those wild schemes of policy, with which their course has been but too plainly marked, and that accumulated distress which every man has seen, and every honest man has felt? Can it be because Bonaparte has said, he loves the Americans? I sir, know no other cause. I know it has been said on this floor, and said too by the honorable gentleman who reported this bill, and his honorable colleague (Mr. Gholson) that the Berlin and Milan decrees are revoked, and in compliance with the law of the last session of congress, the faith of this nation is pledged to Bonaparte, for the due execution of that law against Great Britain; to those opinions my understanding cannot assent—the obligation to Bonaparte I neither feel nor believe. That there such exists will not, in my opinion, be difficult to prove. For a fair understanding of this question, it becomes necessary to apply to the law of May, 1810.—On that law and the proceedings which have been subsequently adopted by

this government and France, must the propriety of the present measure be justified or condemned. The act alluded to, in substance declares, "That in case either Great Britain or France shall before the 3d day of March next, so revoke or modify her edicts, that they shall cease to violate the neutral commerce of the United States, which fact the president of the United States shall declare by proclamation, and if the other nation shall not, within three months thereafter, so revoke or modify her edicts in like manner, the restrictive provisions of the law of 1809, are to be revived and have full force and effect against the nation so refusing or neglecting to revoke or modify, &c. and the restrictions imposed by the act, are from the date of such proclamation to cease and be discontinued in relation to the nation revoking or modifying her decrees in the manner aforesaid.

The emphatic words of this law are, so revoked or modify, as that they cease to violate, &c. Here is a positive, unconditional, indispensable prerequisite, to be complied with, before the President was authorised to exercise the power given to him; a specific fact was to exist, and he was empowered simply to make its existence known to the nation; no discretion was allowed—nothing left to doubtful construction—no conditional promissory note of a perfidious agent, of a more perfidious master, was contemplated by the law. The great question now is, does the fact on which the proclamation was alone to issue, & on which its legitimacy solely depends, exist, or does it not? The very doubt ought to decide the question—the burthen of proof unquestionably ought to rest on those who call on us to pass this law; and in their own language, execute the contract, and violate not the faith so solemnly pledged to "Napoleon the Great"—unfortunately the evidence on which they rely, disproves the fact, and we are enabled to do what can seldom be done. & ought never to be required—prove a negative.

The letter of the Duc de Cadore, of the 5th August, 1810, the proclamation of the 2d November, and Mr. Pinkney's diplomatic special pleading in his letter to the secretary of state, of the 10th December, constitute the whole burthen of proof upon which the advocates of this bill rest its defence, and the evidence of the fact, on which alone it can be justified—I have stated the law, and what I conceive to be its obligations on the President and ourselves. It will now be proper to take a correct view of this famous letter of the Duc de Cadore of the 5th of August, this hamlet charm which has seduced us into a labyrinth, from whose gloomy cells and devious windings, we are, I fear, not soon to be extricated. This letter, which contains but one sentence of plain truth, viz. "That the emperor applauded the general embargo laid by the U. S." after asserting the most palpable falsehood, by denying that the Emperor had knowledge of our law of March, 1809, until very lately and justifying the seizure and condemnation of all American property which had entered, not only the ports of France, but those of Spain, Naples and Holland, dating from the 20th May, 1809; and declaring that reprisal was a right commanded by the dignity of France, a circumstance on which it was impossible to make a compromise, the letter proceeds: "Now congress retrace their steps, they revoke the act of the 1st March, the ports of America are open to the French commerce, and France is no longer interdicted to the Americans. In short congress engages to oppose itself to that one of the belligerent powers, which should refuse to acknowledge the rights of neutrals. In this new state of things, I am authorised to declare to you, sir, that the decrees of Berlin and Milan are revoked, and that after the 1st of November, they will cease to have effect; it being understood, that in consequence of this declaration, (remark, Mr. Speaker, this declaration, not this fact) the English shall revoke their orders in council, and renounce, and renounce the new principles of blockade, which they have wished to establish, or that the United States conformable to the act you have just communicated, shall cause their rights to be respected by the English"—then follows in sweet accents, his majesty's declaration of love for the Americans, his solicitude for our prosperity, and the glory of France.

This is the glided pill, in which lurks a most deadly venom, and which if we swallow, I fear all the political quackery of the nation cannot save us. On this letter, gentlemen rely for the revocation of the French edicts, and the freedom of our commerce with France.—Allowing the most favourable construction to this letter, and abstracting it from circumstances, and facts, both before and after its date, it will not bear gentlemen out in their conclusion; it does not satisfy your law, and did not warrant the state of things, which have been, and are about to be produced.—Instead of an existing and determined fact we have a promise, and that too clogged with conditions, which it was well known to the Emperor would not or could not be complied with to the extent required by him. The conditions which depended on Great Britain, he knew, never would be yielded, and that which depended on ourselves was nothing short of war with England or our own citizens, by oppressing them with a perpetual embargo. Instead of an authenticated act of revocation bearing the authority of the most ordinary law or edict of the French empire, we have nothing but a letter from the agent of the government, and which the Emperor may disavow at pleasure—as was done in the case of the minister of marine, in his explanations to General Armstrong of the intended operation of the Berlin de-

crees.—Instead of the restoration of the immense amount of American property, of which your citizens have been most cruelly and unjustly robbed by this fell monster of the age—and which the President declared, through the secretary of state, in letters to General Armstrong of the 5th June and July, must precede an arrangement with France, and was an indispensable evidence of the just purpose of France towards the United States. Instead of having forty or fifty millions worth of our property restored, we are vauntingly told, that the property was confiscated as a measure of reprisal, that the principles of reprisal must be the law in such a case, and a compromise would be inconsistent with the dignity of France—the plain English of which is, we have the property and we will keep it. Mr. Speaker, are we thus to be abused and thus amused?—Common honor and common sense revolt at the idea. An honorable gentleman from South Carolina (Mr. Cheves) whom I am very much inclined to respect, in an ingenious argument, which he made the other day, to prove that the French decrees were revoked, told you that the revocation of those decrees depended on the mere volition of the mind of the Emperor; not requiring authentication, or form; and although they might be revived the next moment, or substituted by other regulations equally affecting our neutral rights, still they were revoked. Thus attributing an authority to Bonaparte, descriptive of the power of the God of Nature—when he said let there be light and there was light. And in reply to the gentleman from Massachusetts (Mr. Quincy) who contended that form was essential to the repeal of a decree, he remarked that the gentleman wanted form and not substance. From this course of reasoning, I conceive the gentleman has admitted, this pretended revocation has neither form nor substance. An edict may be defined to be, a law promulgated in such form as the institutions of the country require, or some act of sovereign authority, which has gone through the established forms of office, so as to become obligatory. The edicts of France have an appropriate form, their authority is attested by the Emperor, and publicity is given, for the direction of those whose duty it is to carry them into effect.—Sir, the decree of the most absolute monarch on earth is no decree till it is published.—I contend that a revocation or modification of an edict requires the same or equal solemnities with its enactment; the fact must exist and be officially made known before it becomes obligatory—no declaration of an intention to revoke, can constitute an actual revocation. The act ought not only to be determined and public, but susceptible of authentication, and capable of being communicated to the nation, and the world.

This opinion, if it needs authority, is supported by the instructions of the secretary of state to our ministers at Paris and London, of the 5th July. Mr. Pinkney is directed in these words—"If the British government should accede to the overture contained in the act of Congress, by repealing, or so modifying its edicts, as that they will cease to violate our neutral rights, you will transmit the repeal properly authenticated, to General Armstrong and if necessary, by a special messenger, and you will hasten to transmit it also to this department—similar directions are given to General Armstrong."

Will it for a moment be contended, that the formal authentication required by the administration, could mean a Jesuitical, insolent, equivocal, conditional letter, full of sound, and meaning nothing for our good.—But, say gentlemen, the president received the evidence and issued his proclamation. This is true, but why he has done so, and how justified by the law under which alone he was authorised to act—is to my mind, perfectly inexplicable; why in the course of this arrangement with France, he has varied the ground which he first took—why dispensed with requisites at one time declared indispensable—why he advanced in exactions from Great Britain in proportion as he receded from demands on France, is left for himself, and those who have more wisdom than myself, to determine.—I trust, sir, I have a proper share of confidence in the executive, and have no disposition to detract from his merit; but he is only man, and therefore subject to the frailties man is heir to. We have as yet no such maxim among us, as that the executive is infallible—he can do no wrong. Whatever may be the disposition of other gentlemen, I am as yet too free, to much of a genuine *republican* to subscribe to such a doctrine.—I said, sir, that in the course of this arrangement with France, the administration advanced in their demands on Great Britain and receded as to France.

I argue from the documents, which accompanied the president's message at the opening of the present session of Congress.—The first letter in the documents from the secretary of state to Mr. Pinkney, of the 20th January, 1810, does not contain a word on the subject of blockades—on the contrary, the orders in council are alone required to be repealed, as preparatory to a treaty with Great Britain; and the British government are assured of the cordial disposition of the President to exercise any power with which he may be invested, to put an end to acts of congress, which would not be resorted to but for the orders in council, and at the same time, of his determination to put them in force against France, in case her decrees should not also be repealed.

His letter of the 4th of May, which was the first after passing the act of the 1st of May last, that enclosed a copy of that act is not published—on the twenty-second of May, another letter is sent enclosing a second copy of the act of Con-

gress, in which there is not to be found any requisition of a repeal of the blockade, which is now made a *sine qua non* to an arrangement with G. Britain. But on the 2d of July after the arrival of the John Adams, which brought the correspondence between our ministers at Paris and London, and the agents of the British and French governments, on the subject of the repeal of their several orders and decrees; and when it was known that the British government would not abandon her system of blockade and adopt the principles contended for by France. In this letter, I say, contained not only a demand of the repeal of the orders in council, but also of the blockading order of May, 1806. I have already shown from the letters before me, of the 5th June and July, that the restoration of the property of our citizens, confiscated by the order of Bonaparte, was declared by the executive as an indispensable prerequisite to an arrangement with the French government. But the proclamation of the President has been issued without a cent of property being restored, nor is there the most distant prospect of our regaining a shilling from his iron grasp. Thus have the administration changed the ground first taken, increased the demands on Great Britain, and abandoned what was deemed indispensable on the part of France.

So conscious was the President of the just expectations of the people of this country, that provision would be made for the restoration of their property, he informs Mr. Armstrong on the 2d November, the day the proclamation was issued, that "in issuing the proclamation it has been presumed, that the requisition on the subject of the sequestered property will have been complied with.—From what this *presumption* arose I am at a loss to say—the letter of the Duc de Cadore to general Armstrong of the 12th September, had been received here, we had been told there would be no compromise; the law of reprisal must govern.—Sir, the law of reprisal, as recognized by the laws of nations, could never have authorized the seizure. Reprisals can only be resorted to in case of an act of hostility committed by one nation on the property or citizens of another, and after compensation for the injury has been demanded and refused, and even in that case, the property taken, is to be held only in pledge, till satisfaction is made by the offending nation. The moment that confiscation takes place, the principle of reprisal ceases and it becomes an act of war.—We had done no injury to France, we had violated neither the rights of the persons nor property of her subjects.—no demand of indemnity was ever made; not a complaint whispered, till nearly twelve months after the passing of the law, (and after its expiration too) which is made the pretext for this monstrous outrage. The law of reprisal had nothing to do with the affair, and the confiscation of our property excludes the idea of restoration.—I confess I was astonished, and felt humbled as an American, when I heard the language of the President of the United States, in his message to congress at the opening of the present session, on this subject. Instead of that high indignant tone, demanded by the honor and feelings of the nation, he, in the midst of calm philosophy, says, "It was particularly anticipated that as a further evidence of just dispositions towards them, restoration would have been immediately made of the property," of our citizens seized under a *misapplication of the principles of reprisals*, and a misconstruction of a law of the U. States. This expectation has not been fulfilled.—Thus the question as to the restoration seems to be abandoned; one kind loving word from Napoleon the Great (as he has been triumphantly called in this house) this modern Alexander (without his virtues, with all his faults) disarms us of our rage, and we give millions for his embrace. It is in vain sir, to seek for evidence of the revocation of the Berlin and Milan decrees in this letter of the 5th August, we have before us the most conclusive, the most damning testimony of their continued operation as late as the 23th December. By a letter from our charge d'affaires dated Paris 10th December, we are informed that "the New Orleans Packet lately arrived at Bourdeaux, has, with her cargo, the bona fide property of citizens of the United States, and laden at the port of New York, been seized by the director of the customs, under the Berlin and Milan decrees." He further states, that "the case of the New Orleans Packet is the first which has occurred since the first of November, to which the Berlin and Milan decrees would be applied, and if they are applied in this case, it will be difficult for France to shew one solitary instance of their having been practically revoked."

The letter from Charles Meyer, our consul at Bourdeaux of the 14th December, states, that the brig New Orleans Packet, of New York, has been seized by the collector, and her cargo put in the imperial custom house. The schooner Friendship, of and from Baltimore, has been sequestered.—The gentleman from Virginia (Mr. Gholson) has argued against the operation of those decrees, on the authority of a letter from Mr. Russell, containing that bundle of trash, scraped up from the surplus fund of rubbish in the files in the office of the secretary of state, and which was carefully laid on our tables the other day. From which it appears, that no seizure had been made of American property since the first of November, but unfortunately for the gentleman and his argument, the letter alluded to is dated the 1st of December, when indeed no seizure had been made.—but why? Because no vessels had then arrived. It was surely unnecessary to tell us of what did not happen on the first of December, when we well know what did happen on the 10th of December. The