

THE RALEIGH MINERVA.

RALEIGH, N. C.—PUBLISHED (WEEKLY) BY LUCAS AND A. H. BOYLAN.

[OR \$2 50 CENTS IN ADVANCE.]

VOL. 16.

FRIDAY, NOVEMBER 29, 1811.

No. 817.

Public Documents.

DOCUMENTS

Containing the Message of the President, to Congress, Nov. 5, 1811.

Correspondence on the subject of the Orders in Council.

MR. MONROE TO MR. FOSTER.

Department of State,

July 23, 1811.

(CONTINUED.)

Delays have taken place in the restitution of American property, and in placing the American commerce in the ports of France on a fair and satisfactory basis, they involve questions, as has already been observed, in which the United States are interested. As they do not violate the treaties by France, of her edicts, they cannot incur the obligation of Great Britain to revoke them; nor change the epoch at which the revocation ought to have taken place. Had that duty been done, it is more than probable that those circumstances, irrelative as they are, which have excited doubt in the British government of the practical revocation of the French decrees, might not have occurred.

Every view which can be taken of this subject increases the painful surprise at the innovations on all the principles and usages heretofore observed, which are so unreservedly contended for in your letters of the 3d and 16th inst. and which is persisted in by your government present an obstacle to the wishes of the United States, for a removal of the difficulties which have been connected with the orders in council. It is the most of ill-effects to mitigate the calamities of war, and neutral powers possess ample means to promote that object, provided they sustain with impartiality and firmness the dignity of their station. If belligerents expect advantage from neutrality, they should leave them in the full enjoyment of their rights. The present war has been oppressive beyond example, by its duration, and by a desolation which it has spread throughout Europe. It is highly important that it should assume, at least, a milder character. By the revocation of the French edicts, so far as they respect the neutral commerce of the United States, the advance is made towards that most desirable and desirable result. Let Great Britain follow the example. The ground thus gained will be enlarged by the concurring and pressing interests of all parties, and whatever is gained will accrue to the advantage of afflicted humanity.

I proceed to notice another part of your letter of the 2d inst. which is viewed in a more favorable light. The president has received with great satisfaction the communication, that should the orders in council of 1807 be revoked, the blockade of May of the preceding year would cease, and that any blockade which should afterwards be instituted, should be duly notified and maintained by an adequate force. This frank and explicit declaration worthy of the prompt and sensible measure adopted by the prince regent in coming into power, seems to remove a material obstacle to an accommodation of differences between our countries, and when followed by the revocation of the orders in council, will, as I am authorized to inform you, produce an immediate termination of the non-importation law by an exercise of the power vested in the president for that purpose.

I conclude with remarking that if I have confined this letter to the subjects brought into view by yours it is not because the United States have lost sight of any decree of the other very serious cause of complaint, on which they have received satisfaction, but because the conciliatory policy of this government has thus far separated the war of the orders in council from others, and because with respect to those others your communication has not afforded any reasonable prospect of removing them, at this time, with success. It is presumed that the same liberal view of the interests of Great Britain and friendly disposition towards the United States, which induced the prince regent to remove so material a difficulty, will lead to a more favorable consideration of the remaining difficulties on the subject, and that the advantages of an amicable adjustment of every question, depend on the relations between the two countries, will be seen by your government, in the same light, as they are by that of the United States.

I have the honor to be, &c.

(Signed) JAMES MONROE.

MR. FOSTER TO MR. MONROE.

Washington, July 24, 1811.

Having been unable to ascertain distinctly from your letter to me of yesterday's date, whether it was the determination of the president to rescind the partial repeal of the Berlin and Milan decrees, which you believe has taken place, I beg to enquire the reason for the conduct of France in altering the relations between this country and Great Britain, by exercising his power of suspending the operation of the non-importation act, as contained in my letter of the 14th inst. I proceed to make any comments on your

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant.
AUG. J. FOSTER.

To the Honorable James Monroe, &c. &c. &c.

MR. FOSTER TO MR. MONROE.

Washington, July 26, 1811.

SIR,

I have the honour to receive your letter of July 23, in answer to mine of the 3d and 14th inst. which you will permit me to say were not merely relative to his majesty's orders in council, and the blockade of May 1806, but also to the president's proclamation of last Nov. and to the consequent act of congress of March 2, as well as to the just complaints which his royal highness, the prince regent, had commanded me to make to your government, with respect to the proclamation, and to that act.

If the United States' government had expected that I should have made communications which would have enabled them to an accommodation Great Britain on the ground on which alone you say it was possible to meet us, and that you mean by that expression a departure from our system of defence against the new kind of warfare still practised by France, I am at a loss to discover from what source they could have derived those expectations; certainly not from the correspondence between the Marquis Wellesley and Mr. Pinkney.

Before I proceed to reply to the arguments which are brought forward by you to show that the decrees of Berlin and Milan are repealed, I must first enter into an explanation upon some points on which you have evidently misapprehended, for I will not suppose you could have wished to misinterpret my meaning.

And first in regard to the blockade of May, 1806, I must avow that I am wholly at a loss to find out from what part of my letter the president has drawn the unqualified inference, that should the orders in council of 1807 be revoked, the blockade of May, 1806, would cease with them.—It is most material that, on this point, no mistake should exist between us. From your letter it would appear, as if on the question of blockade would probably disappear, I never meant to authorise such a conclusion, and I now beg most unequivocally to disclaim it. The blockade which America had so unexpectedly connected with her demand for a repeal of our orders in council, Great Britain had made the concession required of her; if after all that has passed on the subject, after the astonishment and regret of his majesty's government at the United States' having taken up the view which the French government presented, of our just and legitimate principles of blockade, which are exemplified in the blockade of May, 1806, the whole ground taken by his majesty's government was at once abandoned. When I had the honour to exhibit to you my instructions, and to draw up as I conceived, according to your wishes and those of the president, a statement of the mode in which that blockade of May, 1806, will not continue after the repeal of the orders in council, unless his majesty's government shall think fit to sustain it by the special application of a sufficient naval force, and the fact of its being so continued or not, will be notified at the time. If, in this view of the matter, which is certainly presented in a conciliatory spirit, one of the obstacles to a complete understanding between our countries can be removed by the United States' government waiving all further reference to that blockade when they can be justified in asking a repeal of the orders, and I may communicate this to my government, it will undoubtedly be very satisfactory; but I beg distinctly to disavow having made any acknowledgment that the blockade would cease merely in consequence of a revocation of the orders in council; whenever it does cease, it will cease because there will be no adequate force applied to maintain it.

On another very material point, sir, you appear to have misconstrued my words; for in no one passage of my letter can I discover any mention of innovations on the part of Great Britain, such as you say excited a painful surprize in your government. There is no new pretension set up by his majesty's government. In answer to questions of yours as to what were the decrees or regulations of France which Great Britain complained of, and against which she directs her retaliatory measures, I brought distinctly into your view the Berlin and Milan decrees, and you have not denied, because, indeed you could not, that the provisions of those decrees were new measures of war on the part of France, acknowledged as such by her ruler, and contrary to the principles and usages of civilized nations. That the present war has been oppressive beyond example by its duration, and the desolation it spreads through Europe I willingly agree with you, but the United States cannot surely mean to attribute the cause to Great Britain. The question between Great Britain and France is that of an honourable struggle against the lawless efforts of an ambitious tyrant, and America can but have the wish of every independent nation as to its result.

On a third point, sir, I have been mistaken. Great Britain never contended that British merchant vessels should be allowed to trade with her enemies, or that British property should be allowed entry into their ports, as you would infer; such a pretension would indeed be preposterous; but Great Britain does contend against the system of terror put in practice by France, by which, usurping authority wherever her arms or the timidity

nations will enable her to extend her influence, she makes it a crime to neutral countries as well as individuals that they should possess articles however acquired which may have been once the produce of English industry or of the British soil. Against such an abominable and extravagant pretension every feeling must revolt, and the honour no less than the interest of Great Britain engages her to oppose it.

Turning to the course of argument contained in your letter, allow me to express my surprize at the conclusion you draw in considering the question of priority relative to the French decrees or British orders in council. It was clearly proved that the blockade of May 1806, was maintained by an adequate naval force, and therefore was a blockade founded on just and legitimate principles, and I have not heard that it was considered in a contrary light when notified as such to you by Mr. Secretary Fox, nor until it suited views of France to endeavour to have it considered otherwise. Why America took up the view the French government chose to give of it, and could see in it grounds for the French decrees, was always matter of astonishment in England.

Your remarks on the modifications at various times of our system of retaliation will require the less reply from the circumstance of the orders in council of April 1809, having superseded them all. They were calculated for the avowed purpose of softening the effect of the original orders on neutral commerce, the incidental effect of those orders on neutrals having been always sincerely regretted by his majesty's government; but when it was found that neutrals objected to them they were removed.

As to the principle of retaliation, it is founded on the just and natural right of self defence against our enemy; if France is unable to enforce her decrees on the ocean, it is not from the want of will, for she enforces them wherever she can do it; her threats are only empty where her power is of no avail.

In the view you have taken of the conduct of America, in her relations with the two belligerents, and in the conclusion you draw with respect to the impartiality of your country, as exemplified in the non-importation law, I lament to say I can not agree with you. That act is a direct measure against the British trade, enacted at a time when all the legal authorities in the United States appeared ready to contest the statement of a repeal of the French decrees, on which was founded the president's proclamation of November 2d, and consequently to dispute the justice of the proclamation itself.

You urge, sir, that the British government promised to proceed *pari passu* with France in the repeal of her edicts. It is to be wished you could point out to us any step France has taken in the repeal of hers. Great Britain has repeatedly declared that she would repeal when the French did so and she means to keep to that declaration.

I have stated to you that we could not consider the letter of August 5, declaring the repeal of the French edicts, provided we revoked our orders in council, or America resented our not doing so, as a step of that nature; and the French government knew that we could not; their object was evidently while their system was adhered to, in all its rigour, to endeavour to persuade the American government that they had relaxed from it and to induce her to proceed in enforcing the submission of Great Britain to the inordinate demands of France. It is to be lamented that they have but too well succeeded; for the United States' government appear to have considered the French declaration in the sense in which France wished it to be taken, as an absolute repeal of her decrees, without adverting to the conditional terms which accompanied it.

But you assert that no violations of your neutral rights by France occur on the high seas, and that these were all the violations alluded to in the act of congress of May 1810. I readily believe indeed that such cases are rare, but it is owing to the preponderance of the British navy that they are so, when scarce a ship under the French flag can venture to sea without being taken, it is not extraordinary that they make no captures. If such violations alone were within the purview of your law, there would seem to have been no necessity for its enactment. The British navy might have been safely trusted for the prevention of this occurrence. But I have always believed and my government has believed that the American legislators had in view in the provisions of their law as it respects France, not only her deeds of violence on the seas, but all the novel and extraordinary pretensions and practices of her government which infringed their neutral rights.

We have had no evidence as yet of any of those pretensions being abandoned. To the ambiguous declaration in Mr. Champagny's note is opposed the unambiguous and personal declaration of Bonaparte himself. You urge that the decree is nothing incompatible with the revocation of the decrees in respect to the United States in his expressions to the deputies from the free cities of Hamburg, Bremen and Lubeck, that it is distinctly stated in that speech, that the blockade of the British islands shall cease when the British blockade ceases, & that the French blockade shall cease in favour of those nations in whose favour Great Britain revokes hers or who support their rights against her pretensions.

It is to be inferred from this and the corresponding parts of the declaration alluded to, that unless Great Britain sacrifices her principles of blockade, which are those authorised by the established laws of nations, France will still maintain her decrees

of Berlin and Milan, which indeed, the speech in question declares to be the fundamental laws of the French empire.

I do not, I confess, conceive how these avowals of the ruler of France, can be said to be compatible with the repeal of his decrees in respect to the United States. If the United States are prepared to insist on the sacrifice by Great Britain of the ancient and established rules of maritime warfare practised by her, then indeed they may avoid the operation of the French decrees, but otherwise, according to this document, it is very clear that they are still subjected to them.

The decree of Fontainebleau is confessedly founded on the decrees of Berlin and Milan, dated the 12th October, 1810, and proves their continued existence. The report of the French minister of Dec. 8, announcing the perseverance of France in her decrees is still further in confirmation of them, and a repudiation of the letter of the minister of Justice, of the 25th last December, confirms me in the inference I drew from it, for otherwise why should that minister make the prospective restoration of American vessels, taken after the 1st of November, to be a consequence of the non-importation and not of the French revocation. If the French government had been sincere, they would have ceased infringing on the neutral rights of America, after the 1st of November.—That they violated them, however, after that period, is notorious.

Your government seem to let it be understood that an ambiguous declaration from Great Britain, similar to that of the French minister, would have been acceptable to them. But, sir, is it consistent with the dignity of a nation that respects itself, to speak in ambiguous language? The subjects and citizens of either country would in the end be the victims as many are already, in all probability, who from a misconstruction of the meaning of the French government, have been led into the most imprudent speculations. Such conduct would not be to proceed *pari passu* with France in revoking our edicts, but to descend to the use of the perfidious and juggling contrivances of her cabinet, by which she fills her coffers at the expense of independent nations. A similar construction of proceeding *pari passu* might lead to such decrees as those of Rambouillet, or of Bayonne, to the system of exclusion of licences, all measures of France against the American commerce, in nothing short of absolute hostility.

It is urged that no vessel has been condemned by the tribunals of France on the principles of her decrees since the 1st of November. You allow, however, that there have been some detained since that period and that such part of the cargoes as consisted of goods not the produce of America, was seized, and the other part, together with the vessel itself, only released after the president's proclamation became known in France. These circumstances surely only prove the difficulty that France is under in reconciling her anti-commercial and anti neutral system, with her desire to express her satisfaction at the measures taken in America against the commerce of Great Britain. She seizes in virtue of the Berlin and Milan decrees but she makes a partial restoration for the purpose of deceiving America.

I have now followed you, I believe sir, through the whole range of your argument, and on reviewing the course of it, I think I may securely say that no satisfactory proof has yet been brought forward of the repeal of the obnoxious decrees of France, but, on the contrary, that it appears they continue in full force, consequently that no grounds exist on which you can, with justice, demand of Great Britain a revocation of her orders in council;—that we have a right to complain of the conduct of the American government, in enforcing the provisions of the act of May, 1810, to the exclusion of the British trade, and afterwards in obtaining a special law for the same purpose, though it was notorious at the time that France still continued her aggressions upon American commerce, & had recently promulgated anew her decrees suffering no trade from this country but through licenses publicly sold by her agents and that all the suppositions you have formed of innovations on the part of Great Britain or of her pretensions to trade with her enemies are wholly groundless. I have also stated to you the view his majesty's government has taken of the question of blockade of May, 1806, and it now only remains that I urge afresh the injustice of the United States' government persevering in their union with the French system for the purpose of crushing the commerce of Great Britain.

From every consideration which equity, good policy or interest can suggest, there appears to be such a call upon America to give up this system which favours France to the injury of Great Britain, that I cannot however little satisfactory your communications are, as yet abandon all hopes that even before the congress meet, a new view may be taken of the subject by the president, which will lead to a more happy result.

I have the honour to be, with very high consideration and respect, sir, your most obedient humble servant.

AUG. J. FOSTER.

To the Hon. James Monroe, &c.

MR. MONROE TO MR. FOSTER.

Department of State,

25th July, 1811.

SIR,

I had the honor to receive your letter of yesterday's date, in time to submit it to the view of the President before he left town.

(See fourth page.)