THE RALEIGH MINERVA.

[THREE DOLLARS PER YEAR,] RALEIGH, N. C.—PUBLISHED (WEEKLY) BY LUCAS AND A. H. BOYLAN. [OR $2 50 CENTS IN ADVANCE.

Vol. 17. FRIDAY, JULY 24, 1812. No. 851.

POLITICAL.

Acts to the People of the United States,

BY MEMBERS OF CONGRESS,

On the subject of

WAR WITH GREAT BRITAIN.

(CONTINUED.)

The intercourse act of March 1809, and the act "concerning "commercial intercourse" of May 1810, vest the President of the U. S. with the very same power, in the very same terms. Both authorize him "in case either Great-Britain or France shall so revoke or modify her edicts, as that they shall cease to violate the neutral commerce of the U. States" to declare the same by proclamation. On the provisions of one law in such case, non-intercourse was to cease; by those of the other it was to be revived. In construction, however vested, by the first act, the arrangement with Erskine was made and the revocation of the orders in council of January and November 1807, was considered as a full compliance with the law and as removing all the anti-neutral edicts. The blockade of May, 1806, was not included in the arrangement, and it does not appear, that it was deemed of sufficient importance to engage even a thought. Yet, under the act of May, 1810, which vests the very same power, a revocation of this blockade of May, 1806, is made by our cabinet a *sine qua non*; an indispensible requisite! And now, after the British minister has directly avowed that this order of blockade would not continue after a revocation of the orders in council, without a due application of an adequate force, the existence of this blockade, is insisted upon, as a justifiable cause of war, notwithstanding, that our government admits a blockade is legal, to the maintenance of which an adequate force is applied.

The undersigned are aware, that, in justification of this new ground, it is now said that the extension on paper, for whatever purpose intended, favors the principle of paper blockades. This, however, can hardly be urged, since the British,* formally, disavow the principle; and since they acknowledge, the very doctrine of the law of nations, for which the American administration contend, henceforth, the existence of a blockade becomes a question of fact: it must depend upon the evidence adduced, in support of the adequacy of the blockading force.

From the preceding statement it is apparent, that whatever there is objectionable, in the principle of the order of May 1806, or in the practice under it, on ground merely American, it cannot be set up as a sufficient cause of war; for until France pointed it out, as a cause of controversy, it was so far from being regarded, as a source of any new, or grievous complaint, that it was actually considered, by our government, in a favorable light.

The British orders in council are the remaining source of discontent, and avowed cause of war. These, have, heretofore, been considered, by our government in connexion with the French decrees. Certainly, the British orders in council and French decrees, form a system subversive to neutral rights and constitute just grounds of complaint, yet, viewed relatively to the condition of those powers towards each other, and of the United States towards both, the undersigned cannot persuade themselves that the orders in council, as they now exist and with their present effect and operation, justify the selection of Great Britain as our enemy; and render necessary a declaration of unqualified war.

Every consideration of moral duty, and political expedience, seems to concur in warning the United States, not to mingle in this hopeless, and, to human eye, interminable European contest. Neither France, nor England, pretends that their aggressions can be defended, on the ground of any other belligerent right, than that of particular necessity.

Both attempt to justify their encroachments, on the general law of nations, by the plan of retaliation. In the relative position, and proportion of strength of the United States, to either belligerent, there appeared little probability, that we could compel the one, or the other, by hostile operations, to abandon this plea.

And as the field of commercial enterprise, after allowing to the decrees and orders, their full practical effect, is still rich and extensive, there seemed as little wisdom as obligation to yield solid and certain realities for unattainable pretensions. The right of retaliation, as existing, in either belligerent, it was impossible, for the U. States, consistent with either its duty, or interest, to admit. Yet such was the state of the decrees, and orders of the respective belligerents, in relation to the rights of neutrals, that, while on the one hand, it formed no justification to either, so on the other, concurrent circumstances, formed a complete justification to the United States, in maintaining, notwithstanding these encroachments, provided it best comported with their interests, that system of impartial neutrality, which is so desirable to their peace and prosperity. For if it should be admitted, which no course of argument can maintain, that the Berlin decree, which was issued on the 21st of November, 1806, was justified, by the antecedent orders of the British admiralty, respecting the colonial trade, and by the order of blockade of the 16th of May, preceding, yet on this account, there resulted no right of retaliation to France, as it respected the United States. They had expressed no acquiescence either in the British interference with the colonial trade, or in any extension of the principles of blockade. Besides, had there been any such neglect, on the part of the United States, as warranted the French emperor in adopting his principle of retaliation, yet in the exercise of that pretended right, he past the bounds of both public law and decency; and, in the very extravagance of that exercise, lost the advantage of whatever colour the British had offered to his pretences. Not content with adopting a principle of retaliation, in terms limited, and appropriate, to the injury of which he complained, he declared, "all the British Islands, in a "state of blockade; prohibited all commerce and correspondence "with them, all trade in their manufactures; and made lawful prize "of all merchandize, belonging to England, or coming from its manufactories, and colonies." The violence of these encroachments was equalled only by the insidiousness of the terms, and manner, in which they were promulgated. The scope of the expressions of the Berlin decree, was so general that it embraced within its sphere, the whole commerce of neutrals with England. Yet Dacres, Minister of the Marine of France, by a formal note, of the 24th December, 1806, assured our minister Plenipotentiary, that the imperial decree, of the 21st November, 1806, "*was not to affect our commerce, which* "*would still be governed by the rules of the treaty, established between* "*the two countries.*" Notwithstanding this assurance, however, on the 18th September following, Regnier, Grand Minister of justice, declared "*that the intentions of the Emperor were that, by virtue of* "*that decree, French armed vessels might seize in neutral vessels, either* "*English property, or merchandise proceeding from the English manu-* "*factories; and that he had reserved for future decision the question* "*whether they might not possess themselves of neutral vessels going to,* "*or from England, although they had no English manufactures on* "*board.*" Pretensions, so obviously exceeding any measure of retaliation, that, if the precedent acts of the British government had afforded to such a resort, any colour of right, it was lost in the violence and extravagance of these assumed powers.

To the Berlin decrees succeeded the British orders in council, of the 7th of January, 1807, which were merged in the orders of the 11th of November following. These declared "all ports, and places belonging to France, and its allies, from which the British flag "was excluded, and in the colonies of his Britanic majesty's enemies, in a state of blockade;—prohibiting all trade, in the produce and manufactures, of the said countries or colonies; and "making all vessels, trading to or from them, and all merchandize "on board, subject to capture and condemnation, with an exception "only in favour of the direct trade, between neutral countries and "the colonies of his majesties enemies."

These extravagant pretensions, on the part of Great-Britain, were immediately succeeded by others, still more extravagant, on the part of France. Without waiting for any knowledge of the course the American government would take, in relation to the British orders in council, the French Emperor issued, on the 17th of December following, his Milan decree, by which "every ship of "whatever nation, which shall have submitted to search, by an "English ship, or to a voyage to England, or paid any tax to that "government, are declared *denationalized*, and lawful prize.

"The British Islands are declared in a state of blockade, by sea "and land; and every ship of whatever nation, or whatsoever the "nature of its cargo may be, that sails from England, or those of "the English colonies, or of countries occupied by English troops, "and proceeding to England, or to the English colonies, or to countries occupied by the English, to be good prize." The nature and extent of these injuries thus accumulated by mutual efforts of both belligerents, seemed to teach the American statesman this important lesson; not to attach the cause of his country to one, or the other; but by systematic and solid provisions, for sea coast and maritime defence, to place its interests, as far as its situation, and resources permit, beyond the reach of the rapacity, or ambition of any European power. Happy would it have been for our country, if a course of policy, so simple and obvious, had been adopted!

Unfortunately administration had recourse to a system, complicated in its nature, and destructive in its effects; which instead of relief from the accumulated injuries of foreign governments, served only to fill up, what was wanting in the measure of evils abroad, by artificial embarrassments at home. As long ago, as the year 1794; Mr. Madison, the present President of the United States, then a member of the House of Representatives, devised and proposed a system of commercial restrictions which had for its object the coercion of Great-Britain, by a denial to her of our products and our market; asserting that the former was in a manner essential to her prosperity, either as necessaries of life, or as raw materials for her manufactures; and, that without the latter, a great proportion of her labouring classes, could not subsist.

In that day of sage and virtuous forethought, the proposition was rejected. It remained, however, a theme of unceasing panegyric among an active class of American politicians, who with a systematic pertinacity inculcated among the people, that commercial restrictions were a species of warfare, which would ensure success to the United States, and humiliation to Great-Britain.

There were two circumstances, inherent in this system of coercing Great-Britain by commercial restrictions, which ought to have made practical politicians, very doubtful of its result and very cautious of its trial. These were the state of opinion in relation to its efficacy among commercial men, in the United States; and the state of feeling, which a resort to it would unavoidably produce, in Great-Britain. On the one hand, it was undeniable that the great body of commercial men, in the United States, had no belief in such a dependence of Great Britain, upon the United States, either for our produce, or our market, as the system implied.

Without the hearty co-operation of this class of men, success in its attempt was obviously unattainable. And as on them the chief suffering would fall, it was altogether unreasonable to expect that they would become co operating instruments in support of any system, which was ruin to them, and without hope to their country. On the other hand, as it respects Great Britain, a system proceeding upon the avowed principle of her dependence upon us, was among the last, to which a proud and powerful nation would yield.

Notwithstanding these obvious considerations, in April 1806, Mr. Madison, being then Secretary of State, a law passed Congress, prohibiting the importation of certain specified manufactures of Great-Britain, and her dependencies, on the basis of Mr. Madison's original proposition. Thus the United States entered on the system of commercial hostility against Great Britain.

The decree of Berlin was issued in the ensuing November, (1806.) The treaty, which had been signed at London, in December, 1806, having been rejected by Mr. Jefferson, without being presented to the Senate for ratification, and the non importation act not being repealed, but only suspended, Great Britain issued her orders in council, on the 11th November, 1807.

On the 21st of the same month of Nov. Champagny, French minister of foreign affairs, wrote to Mr. Armstrong the American Minister, in the words following. "All the difficulties, which "have given rise to your reclamations, Sir, would be removed with "ease, if the government of the U. States, after complaining in vain "of the injustice and violations of England, took, with the whole "continent, the part of guaranteeing it therefrom."

On the 17th of the ensuing December, the Milan decree was issued on the part of France, and five days afterwards the embargo was passed on the part of the United States. Thus was completed, by acts nearly cotemporaneous, the circle of commercial hostilities.

After an ineffectual trial of four years to controul the policy of the two belligerents by this system, it was on the part of the United States, for a time, relinquished. The act of the 1st May, 1810, gave the authority, however to the President of the United States to revive it against Great Britain, in case France revoked her decrees. Such revocation, on the part of France was declared, by the President's proclamation on the 2d November, 1810, and, in consequence non-intercourse was revived by our administration, against Great Britain.

At all times, the undersigned have looked, with much anxiety for the evidence of this revocation. They wished not to question, what, in various forms, has been so often asserted by the administration and its agents, by their direction. But neither as public men, nor as citizens, can they consent that the peace and prosperity of the country should be sacrificed, in maintenance of a position, which on no principle of evidence they deem tenable. They cannot falsify, or conceal their conviction, that the French decrees neither have been, nor are revoked.

Without pretending to occupy the whole field of argument, which the question of revocation has opened, a concise statement seems inseparable from the occasion.

The condition, on which the non-intercourse according to the act of 1st May 1810, might be revived against Great Britain, was, on the part of France, an *effectual revocation of her decrees*. What the President of the United States was to require from the French Government was, *the evidence* of such effectual revocation. Upon this point both the right of the United States and the duty of the President, seem to be resolvable into very distinct and undeniable principles. The object to be obtained, for the United States from France was *an effectual revocation* of the decrees. A revocation to be effectual, must, include, in the nature of things, this essential requisite:—the wrongs done to the neutral commerce of the United States, by the operation of the decrees, must be stopped. Nothing short of this could be an effectual revocation.

Without reference to the other wrongs resulting from those decrees to the commerce of the United States; it will be sufficient to state the prominent wrong done by the 3d article of the Milan decree*. The nature of this wrong essentially consisted *in the authority given* to French ships of war and privateers to make prize, at sea, of every neutral vessel, sailing to, or from, any of the English possessions. The authority to capture was the very essence of the wrong. It follows therefore that *an effectual revocation required that the authority to capture should be annulled.*—Granting therefore, for the sake of argument, (what from its nature was certainly not the case) that the noted letter of the Duke of Cadore of the 5th of August 1810, held forth a revocation, yet *it was not that effectual revocation*, for which the act of 1st May 1810, alone authorised the President of the United States to issue his proclamation, *unless in consequence of that letter, the authority to capture was annulled.* The letter itself is no annulment of this authority to capture, and it is notorious that no evidence of the annulment of this authority to capture, ever has been adduced. It has not even been, pretended. On the contrary there is decisive and almost daily evidence of the continued existence of this authority to capture.

The charge of executing the decrees of Berlin and Milan, was so far as concerned his department, given by the terms of those decrees to the French minister of Marine. According to established principles of general law, the imperial act, which gave the authority must be annulled by another imperial act, equally formal and solemn; or at least, the authority to capture must be countermanded by some order, or instruction, from the minister of marine. Nothing short of this could annul the authority according to the rule of the sea service. Was such annulling act ever issued by the French Emperor? Were any such countermanding orders, or instructions, ever given by the French minister of marine? In exercising a trust, committed to him, by the legislature, on a point so interesting to the neutral commerce of the United States, and so important to the peace of the nation, was it not the duty of the President to have the evidence of such annulment, before the issuing of any proclamation? Has he ever insisted upon such evidence? Was it of no consequence in the relative situation of this country, as to foreign powers, that the regular evidence should be received by our administration and made known? Why has a matter of evidence, so obviously proper, so simple in its nature, so level to general apprehension and so imperiously demanded, by the circumstances of the case, been wholly omitted? And why, if the Berlin and Milan decrees are annulled, as is pretended, does the French Emperor withhold this evidence of their annulment? Why does he withhold it, when the question of revocation is presented under circumstances of so much urgency?

Not only has it never been pretended that any such imperial act of annulment has issued, or that any such orders, or instructions, countermanding the authority to capture, were ever given, but there is decisive evidence of the reverse in the conduct of the French public armed ships and privateers. At all times since Nov. 1810, these ships and privateers have continued to capture our vessels and property, on the high seas, upon the principles of the Berlin and Milan decrees. A numerous list of American vessels, thus taken, since the 1st of November 1810, now exists in the office of the secretary of state: and among the captures are several vessels with their cargoes, lately taken and destroyed at sea, without the formality of a trial, by the commander of a French squadron, at this moment cruizing against our commerce, under orders, given by the minister of marine, to whom the execution of the decrees was committed; and these too issued in January last. In the Baltic and Mediterranean seas, captures by French privateers are known to us, by official documents, to have been made under the authority of these decrees. How then are they revoked? How have they ceased to violate our neutral commerce?

Had any repeal, or modification of those decrees, in truth taken place it must have been communicated to the prize courts, and would have been evidenced by some variation either in their rules or in the principles of their decisions. In vain, however, will the nation seek for such proof of the revocation of the decrees. No acquittal has ever been had, in any of the prize courts, upon the ground that the Berlin and Milan decrees had ceased, even as it respects the United States. On the contrary the evidence is decisive that they are considered by the French courts as existing.

There are many cases corroborative of this position. It is enough to state, only, two, which appear in the official reports. The American ship Julian was captured by a French privateer, on the 4th July 1811, and on the tenth of September 1811, the vessel and cargo was condemned, by the council of prizes at Paris among other reasons *because she was visited by several English vessels.* On the same day the Hercules an American ship was condemned by the imperial court of prizes, alledging "that it was impossible, that she was not visited by the enemy's ships of war." So far as to them was the existence of the decrees, and such their eagerness to give them effect against our commerce, that they feigned a visit

---

* Mr. Foster in his letter of the 3d of July 1811, to Mr. Monroe, thus states the doctrine, maintained by his government.

"Great-Britain has never attempted to dispute that, in the ordi- "nary course of the law of nations, no blockade can be justifiable or "valid, unless it be supported by an "adequate force destined to "maintain it and to expose to hazard all vessels attempting to evade "its operation.

"Mr. Foster in his letter to Mr. Monroe of the 26th July, 1811, "also says, The 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."

* This article is in these words;

"*Art. III.* The British islands are declared to be in a state of "blockade, both by land and sea. Every ship of whatever nation, "or whatsoever the nature of its cargo may be, that sails from the "ports of England, or those of the English colonies and of the "countries occupied by English troops and proceeding to England, "or to the English Colonies, or to countries occupied by English "troops is good and lawful prize, as contrary to the present decree "and *may be captured, by our ships of war or our privateers and so* "*judged to the captor.*"