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## Political.

FROM THE NORFOLK LEDGER.

**The Embargo**—It is not our intention, at this time, to enter into an exposition or examination of this measure upon general principles, because we are satisfied that ignorance and obstinacy, and perhaps something worse than either, will not be convinced.

We intended to examine the subject as it relates to particular parts of the country, and we trust we shall be able to shew, that there was an ignorance, in those who passed this law, of the topography of the coasts of North and South Carolina, that is inexcusable. We premise however, that the advocates of this measure will not have the assurance to accuse the great body of the people of a design to hold a traitorous intercourse with the enemy, and if they do not prefer this accusation, then we say that they have imposed, from ignorance, unnecessary distress upon the people.

As soon as the enemy put the Delaware and Chesapeake Bays in a state of blockade, the ports of North Carolina were resorted to by vessels engaged in foreign commerce, but more particularly for the means of intercourse between the southern and northern states. Ships of war, particularly in the winter season, dare not approach too near the coast, for if caught near the land by a gale of wind from the eastward, between the Capes Lookout and Hatteras, they could not clear the land upon either tack; the Flying-Pan and Cape Ronain shoals make it dangerous to approach the coast, except in small vessels, navigated by persons well acquainted.

Before the embargo was laid, a considerable trade, partly by sea, but chiefly by inland navigation, was carried on between this place and the ports as far south as Charleston. A detailed account of the voyage may be necessary to elucidate the subject. The vessel sails from Charleston without going to sea until she comes to Bull Island; there she puts to sea, and proceeds for George-Town, which harbor is about 30 miles north from Bull Island; from George-Town to Cape Fear River is about 50 miles; the vessel then proceeds by inland navigation until she comes to New Inlet, about 35 miles south of Beaufort, N. C.; when she gets to Beaufort, the remainder of the navigation is inland, as we shall more particularly notice presently.

In the course of the summer past, upwards of one hundred voyages have been made to and from the ports in Pamlico and Albemarle Sounds, to Wilmington on Cape Fear River, and not one capture has been made, nor is there one missing. Between Wilmington and Charleston only three have been captured. The risk of capture in the winter is much less than in the summer, because the enemy's vessels are obliged to keep at a respectable distance from the coast. The persons employed in this trade are well acquainted with the coast and all the shoals, by reason of which they take care never to be at sea but in the night; when they put to sea, they generally go out about an hour or two before sun-down, and never but with a fair wind, taking care not to go out if there is a suspicious vessel in view—before morning they are up with the next Inlet, where they remain until they see no danger, and if the wind permits, proceed on, the next night. In this way the voyage is performed with the utmost security. After vessels from the southward enter Beaufort, they proceed to Elizabeth-City, where their cargoes are sent through the Dismal Swamp Canal to Norfolk; others go through Currituck Sound to North Landing, about 8 miles from Kempsville—this is land carriage—from Kempsville by water to Norfolk is about nine or ten miles. Arrived at Norfolk, the goods go by water to Petersburg, Richmond, &c. Should the enemy occupy Hampton Roads, or be in James River, the vessels on leaving Beaufort, go up Chowan River, to South Quay, which is 65 miles (land carriage) from Petersburg, and about 48 from Suffolk. This minute detail will be excused, when it is recollected that our object is to shew, that a most valuable trade (almost inland) has been destroyed, from ignorance or something worse, a trade that gave employment to thousands, brought the rice and cotton of the southern states, with much foreign produce, to market, at a small expense, and carried the flour and other products of this state to the southern states.

The risk will be better understood by the rates of freight and insurance. The freight from South Quay, North Landing, or Elizabeth City, to Wilmington, was one dollar twenty-five cents per barrel for flour—to Charleston, from two dollars to two dollars twenty-five cents, and other goods, in proportion. The insurance was from one of the three places above mentioned, to Wilmington, about seven and a half per cent.—to Charleston, about fifteen to twenty per cent.—including all risks; that of the enemy may be estimated at about two thirds—the risk of navigation among shoals in the night is considerable.

Having given this history of the trade, which

is now annihilated, it will be admitted by every candid man, that apprehension of the property of our citizens falling into the hands of the enemy, could not have been the motive for imposing this unnecessary and cruel restriction upon industry. If it is said that the enemy were supplied by this channel, and no proof is given, the only proper answer is "IT IS FALSE," and it matters not by whom the assertion is made.

The vexations which have grown out of this law are most serious and ruinous. Many vessels belonging to Albemarle and Pamlico Sounds were in Charleston and Wilmington, some loaded, and others partly loaded; they have been compelled to land their cargoes, and the collectors refuse to give them permission to return home in ballast, because the law allows no American vessel to put to sea even in ballast.

Our fellow citizens who are ruined in fortune, unjustly, and we may add audaciously suspected, can vote for those men, who have thus abused them, they cannot complain if they are ruined and despised.

FROM THE NORFOLK HERALD, (DEMO.)

"Too much of a good thing?"—Though we still, as heretofore, maintain the expediency of an Embargo, we must say, that such an Embargo as we have at present, that is, such as it is constrained to be by the Treasury Department, is in our opinion "carrying the joke too far." Where there is a possibility that provisions or naval and military stores may fall into the hands of the enemy, either by treachery or capture, it is well enough to interpose the restrictive formality of the law; but there are cases wherein a rigid enforcement of the law, would not only be ridiculous in the extreme, but a wanton act of cruelty.

A case in point has recently come within our knowledge, laughable enough, viewing it as a national act, but far otherwise when the case of the unfortunate party is considered. Two neighboring country people who live on the eastern branch of Elizabeth River, brought a lighter load of plank and timber to this market, which having sold, they invested the proceeds in necessaries for their families; and, as they had heard of such gentry as monopolizers and speculators, they determined to lay in as good a stock as their means would admit of. Accordingly it appears their return cargo consisted of four barrels of flour, some ten or twelve pounds of sugar, a like quantity of coffee, ten pounds of cotton, &c. &c. They then betook themselves to their lighter to make the best of their way home, without dreaming of the Custom-House or the Revenue Cutter, when lo! they had only got to the Drawbridge, when they were stopped by the Revenue Cutter, and informed that they could not depart without a regular clearance from the Custom-House!—A lighter going up the eastern branch to be compelled to clear out at the Custom-House, was a novelty indeed!—If there was any chance that it might be rowed over land to Lynnhaven river and so go along side of the enemy, without upsetting, there might be some reason in the case!—To be brief, it being then late in the afternoon and the Collector's Office closed for the day, these poor fellows were compelled to wait until the next morning at 9 o'clock, and for want of better accommodations, to take up their night's lodgings in the lighter. In due time they obtained their clearance, (for which of course they were charged something) and permitted to go home. If any possible good could result from such aggravated severity, no one ought to complain of it; but as it is well known that the nation cannot be benefitted by it even in the remotest degree, we do say that it is wanton cruelty.

FROM THE FEDERAL REPUBLICAN.

## PEACE PROSPECT.

Messrs. Jonathan Russell, and Henry Clay, Speaker of the House of Representatives, are nominated, in conjunction with Messrs. Bayard and Adams, to negotiate with the British commissioners at Gottenburg. Mr. Russell is nominated also Minister Plenipotentiary to Stockholm. So that Mr. Madison, who never was known to give up an opinion or yield a point, after all, will provide for Mr. Russell. His claim to reward is to be found in Col. Monroe's report upon Mr. Webster's resolutions. It was a most valuable letter! Mr. Clay, it is understood, flounced at the prospect of peace when Lord Castlereagh's despatch was "appreciated," and it was supposed he would recede.—Mr. Madison has taken the right way to reconcile him. The public will judge of the prospect of peace from the character of the negotiators.

## Congress.

### HOUSE OF REPRESENTATIVES.

#### COMMERCE.

Mr. King, of Mass. rose to submit some resolutions, on a subject which he deemed of great importance—he meant the commerce of our country, if that would indeed be deemed important now. Whatever the impressions of this house or of the government may be on the subject of commerce, still it is, and will continue to be dear to a great majority of the American people. They will cling to the wreck of it while a spar or the flag remains above the water. Even the navy which bears that flag would lose its value and importance if we had no commerce to protect—and that navy, encircled as it is with glory, it was impossible to call to recollection, without emotions, which he feelingly described. It was important, Mr. K. said, that

we should know and accurately define the extent of our constitutional powers in relation to commerce, in every point of view. In peace we look to commerce for the whole of our revenue; in war, attempts are made to fight our enemy through its agency. In this way, and by your restrictive measures, said he, commerce has been reduced from its proud elevation to a pitiful remnant; and you have lately passed a law sweeping that remnant from the ocean; and all this has been done under the constitutional power given to this government for regulating commerce! You act like bungling mechanics, in whose hands delicate machines are entrusted—and who stop their motion in attempting to mend them. I know the plea urged is, that because congress have the power to declare war, and to raise and support armies, they have a right to oppress commerce, by way of making it an instrument of war. Mr. K.'s idea of the power of congress was this: that the power to regulate commerce was a co-ordinate and independent branch of power, equally with other powers granted under the constitution. He never could for a moment conceive, where one power is granted, that under that power another independent power was to be exercised. Besides, Mr. K. said, he did extremely doubt the efficacy of these measures regulating commerce. The government had endeavored to make the commerce of the country what was called an efficient belligerent weapon. It was a weapon, he said, of that kind, the recoil of which on the citizen was infinitely more destructive than the projectile force on the enemy. You may prevent a few of the fleet of the enemy from being supplied; but you arrest or cramp the industry of thousands of our own citizens by the measure, which thus become infinitely more mischievous than beneficial. Besides, said he, why select the commerce of your own country, why oppress your merchants, in waging your restrictive war on the enemy? The answer will doubtless be, that through their means he may with great facility receive his supplies. But why not at once lay the axe to the root of the tree? Why not go to the farmer and tell him that he shall not plough nor sow, nor reap, because if he does the enemy may be supplied by the product of his industry? Such language might be held with the same propriety to the farmer as that they now held to the merchant. The farmer would tell you those were rights which he received by a heavenly charter; that so long as the earth remained, seed time and harvest should not cease. Suppose a law were to be passed, that no waggon should travel on the high way. In thirty days he believed the Capitol would be surrounded by ten thousand of those wagoners, who would endeavor to force a respect for their rights. Mr. K. said, it did appear to him that the congress and government had departed from those principles which were dear to and cherished by our ancestors. He would recal the minds of members back to that memorable period, the declaration of independence.—[The Speaker here called upon Mr. King to state his motion, that it might be ascertained whether his remarks were strictly applicable to the question he was about to raise.] Mr. K. submitted to the decision of the chair. He had nearly finished his prefatory remarks: and had only intended to recal the recollection of one fact, viz. the passage of what was called the Boston port bill, passed some time in 1774, by which the port of Boston was closed. He merely meant to have compared it with the bill recently passed this House, by which all the ports of the U. S. were closed. And with this remark he offered the following resolutions for consideration.

1. Resolved, That the constitutional powers of Congress do not extend to the suspension or interdiction of the coasting trade of the U. States of America from a district in one state to a district in the same state.

2. Resolved, That the constitutional powers of Congress do not extend to a suspension or interdiction of the coasting trade of the United States of America from a district in one state to a district in the same state or an adjoining state on the sea coast or on a navigable river: Therefore.

3. Resolved, That the committee on Foreign Relations be and they are hereby instructed to bring in a bill to repeal so much of the act lying an embargo on all ships and vessels in the ports and harbors of the U. States passed on the 17th day of December, A. D. 1813, as suspends or interdicts the coasting trade of the U. States of America from a district in one state to a district in the same state or an adjoining state on the sea coast, or on a navigable river.

And the question on proceeding now to consider the said resolution, was decided by yeas and nays—Yeas 65—Nays 95.

So the house refused to consider the said resolution.

## Law Intelligence.

### U. S. Circuit Court, October Term, 1843.

#### STEPHEN DECATUR VERSUS THOMAS I. CHEW.

This was an action for money had and received. In the trial of this cause, so interesting to our gallant naval officers, a statement of facts was agreed upon by the counsel, which is substantially as follows:

In the autumn of 1812, Commodore Decatur commanded the U. S. frigate *United States*, with unlimited orders, and had attached to his squadron the frigate *Chesapeake*, Capt. Evans, commander, and the brig *Argus*, Captain Sinclair, commander, by virtue of instructions from the navy department. Captain Evans with some

latitude of discretion sailed on a cruise, in the *Chesapeake*, under the immediate and limited orders of Commodore Decatur, and during his cruise, captured a British merchant ship called the *Volunteer*, and sent her, with a prize master, into the district of New-Hampshire, where she was libelled, and condemned by the district court for that district; and one moiety of the proceeds ordered by the court to be paid into the treasury of the U. S. and the other to be paid into the court, for the use of the captors.—The officers and crew of the *Chesapeake*, appointed the defendant prize agent, who received the money of the proceeds condemned to the use of the captors. When Capt. Evans returned to Boston, he reported his cruise to Com. Decatur; but before the *Chesapeake* sailed on her cruise, Com. Decatur had returned to New-London with the *Britannic* majesty's frigate *Macedonian*, and owing to the superior force of the enemy lying off New-London, has not yet been able to proceed to sea.

Com. Decatur claims one twentieth of one moiety of the proceeds of the *Volunteer*. Captain Evans as a matter of right, refused to permit the defendant, who is a mere stake holder, to pay it over on two grounds. The first was, that the *Chesapeake* was acting "independently" when she made the capture, in which case, by the prize law of the U. States, Capt. Evans would have been entitled to three twentieths of the prize money, and the commodore to nothing. The second ground was, that the commodore had "left his station" prior to the capture of the *Volunteer*, in which case, by the prize law, the commodore was not entitled to any portion of the *Chesapeake's* prize money.

The cause was argued early in the term by Selfridge for the plaintiff, and by Blake, district attorney for the defendant. The court convened yesterday by adjournment, when his honor judge Story, pronounced a learned opinion, in which the district judge concurred, and gave judgment for the plaintiff.

## OPINION OF THE SUPREME COURT, OF NORTH-CAROLINA.

On the constitutionality of the Suspension Law, in the case *Cruikshank vs. Jones*.

DELIVERED BY CHIEF JUSTICE TAYLOR.

The law, of which the defendant claims the benefit, was passed in 1812, and provides that any court rendering judgment against a debtor for debt or damages between the 31st of Dec. of that year and the 1st of Feb. 1814, shall stay the execution until the first term of session of the Court after the latter period, upon the defendant's giving two free-holders as securities. The act contains sundry details, which it is not necessary to recite.

In deciding the momentous question, whether the will of the legislature, as expressed in this act, be incompatible with the will of the people, as expressed in their fundamental law, the Constitution of the United States, we disclaim all right or power to give judgment against the validity of a legislative act, unless its collision with the Constitution appear to our understandings manifest and irreconcilable. On the contrary, if patient and dispassionate consideration of the subject, produce any thing short of entire conviction, we hold ourselves bound to support a law.

The constitutional will of the legislature, in execution, not less than duty, prompts us to execute; for identified as its members are with the other citizens of the community, and faithfully representing their feelings and interests, we can never allow ourselves to think that the acts proceeding from them can be designed for any other purpose than the promotion of the general welfare; or can result from any other than the purest and most patriotic motives.

We have deliberately viewed the question in every light in which the arguments of the learned counsel on both sides have presented it, and aided by such additional information as our own research and reflection could furnish, the result of our opinion is that the law in question is unconstitutional, and cannot be executed by the judicial department without violating the paramount duty of their oaths to maintain the Constitution of the United States.

This conclusion we derive, 1st. From the plain and natural import of the words of the Constitution of the U. States.

2d. From a consideration of the previously existing mischiefs, which it was the design of that valuable instrument to suppress and remedy.

1. Amongst the important objects which the people of the United States designed to accomplish by adopting the Constitution, that of establishing justice holds a conspicuous rank.—This appears from the solemn declaration of the people themselves in the preamble of that instrument. The enlightened statesmen, by whom it was originally framed, had reaped abundant instruction from history and experience. Long accustomed to contemplate the operation of those master principles and comprehensive truths, which form, at once, the defenses and the ornament of human society; and which, alone, can justify form the basis of the social compact; they designed to give them practical effect, for the benefit of the American people—to consecrate & make them perpetual. They well knew that while the principle of justice is deeply rooted in the nature and interest of man, and essential to the prosperity of states, it forms the strongest and brightest link in the chain, by which the Author of the Universe has united together the happiness and the duty of his creatures.

To give a proper direction to these general principles, the clause in the constitution which