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MESSAGE OF THE President of the U. States, TO THE TWO HOUSES OF CONGRESS.

December 2, 1845.

Concluded.

A question has recently arisen under the ninth article of the subsisting treaty between the United States and Prussia. By this article, the consuls of the two countries have the right to sit as judges and arbitrators in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to their charge, without the interference of local authorities, unless the conduct of the captain or crew should disturb the order or tranquility of the country, or the said consuls should require their assistance to cause their decisions to be carried into effect or supported.

The Prussian consul at New Bedford, in June 1844, applied to Mr. Justice Story to carry into effect a decision made by him between the captain and crew of the Prussian ship Borussia; but the request was refused on the ground that, without previous legislation by Congress, the judiciary did not possess the power to give effect to this article of the treaty. The Prussian government, through their minister here, has complained of this violation of the treaty, and has asked the government of the United States to adopt the necessary measures to prevent similar violations hereafter. Good faith to Prussia, as well as to other nations with whom we have similar treaty stipulations, requires, that these should be faithfully observed, I have deemed it proper, therefore, to lay this subject before Congress, and to recommend such legislation as may be necessary to give effect to these treaty obligations.

By virtue of an arrangement made between the Spanish government and that of the United States in December 1831, American vessels, since the twenty-ninth of April, 1832, have been admitted to entry in the ports of Spain, including those of the Balearic and Canara islands, on payment of the same tonnage duty of five cents per ton, as though they had been Spanish vessels; and this, whenever our vessels arrived in Spain directly from the United States, or indirectly from any other country. When Congress, by the act of the 13th of July, 1832, gave effect to this arrangement between the two governments, they confined the reduction of tonnage duty merely to Spanish vessels, "coming from a port in Spain," leaving the former discriminating duty to remain against such vessels coming from a port in any other country. It is manifestly unjust, that whilst American vessels, arriving in the ports of Spain from other countries, should be subjected to heavy discriminating tonnage duties. This is neither equity nor reciprocity, and is in violation of the arrangement concluded in December, 1831, between the two countries. The Spanish government have made repeated and earnest remonstrances against this inequality, and the favorable attention of Congress has been several times invoked to the subject by my predecessors. I recommend as an act of justice to Spain, that this inequality be removed by Congress, and that the discriminating duties which have been levied under the act of the 13th of July, 1832, on Spanish vessels coming to the United States from any other foreign country, be refunded. This recommendation does not embrace Spanish vessels arriving in the United States from Cuba, and Porto Rico, which will still remain subject to the provisions of the act of June 30th, 1834, concerning tonnage duty on such vessels.

By the act of the fourteenth of July, 1832, coffee was exempted from duty altogether. This exemption was universal, without reference to the country where it was produced, or the national character of the vessel in which it was imported. By the tariff act of the thirtieth of August, 1842, this exemption from duty was restricted to coffee imported in American vessels from the place of its production; whilst coffee imported under all other circumstances was subjected to a duty of twenty per cent. *ad valorem*. Under this act, and our existing treaty with the King of the Netherlands, Java Coffee imported from the European ports of that kingdom into the United States, whether in Dutch or American vessels, now pays this rate of duty. The government of the Netherlands complain that such a discriminating duty should have been imposed on coffee, the produce of one of its colonies, and which is chiefly brought from Java to the ports of that kingdom, and exported thence to foreign countries. Our trade with the Netherlands is highly beneficial to both countries, and our relations with them have ever been of the most friendly character. Under all the circumstances of the case, I recommend that this discrimination should be abolished, and that the coffee of Java imported from the

Netherlands be placed upon the same footing with that imported directly from Brazil and other countries, where it is produced.

Under the eighth section of the tariff act of the thirtieth of August 1842, a duty of fifteen cents per gallon was imposed on Port wine in casks; while, on the red wines of several other countries, when imported in casks, a duty of only six cents per gallon was imposed. This discrimination, so far as regarded the Port wine of Portugal, was deemed a violation of our treaty with that Power, which provides that "no higher or other duties shall be imposed on the importation into the United States of America of any article the growth, produce, or manufacture of the kingdom or possessions of Portugal, than such as are or shall be payable on the like article being the growth, produce, or manufacture of any other foreign country." Accordingly, to give effect to the treaty, as well as to the intention of Congress, expressed in a proviso to the tariff act itself, that nothing therein contained should be so construed as to interfere with subsisting treaties with foreign nations, a treasury circular was issued on the sixteenth of July, 1845, which, among other things, declared the duty of the port wine of Portugal, in casks, under the existing laws and treaty, to be six cents per gallon, and directed that the excess of duties which had been collected on such wine should be refunded. By virtue of another clause in the same section of the act, it is provided that all imitations of Port, or any other wines, "shall be subject to the duty provided for the genuine article." Imitations of Port wine, the produce of France, are imported to some extent into the United States; and the government of that country now claims that under a correct construction of the act, these imitations ought not to pay a higher duty than that imposed upon the original Port wine of Portugal. It appears to me to be unequal and unjust, that French imitations of Port wine should be subjected to a duty of fifteen cents, while the more valuable article from Portugal should pay a duty of six cents only per gallon. I therefore recommend to Congress such legislation as may be necessary to correct the inequality.

The late President in his annual message of December last, recommended an appropriation to satisfy the claims of the Texas Government against the United States, which had been previously adjusted, so far as the powers of the executive were concerned. These claims arose out of the act of disarming a body of Texas troops under the command of Major Snively, by an officer in the service of the United States, acting under the orders of our Government; and the forcible entry into the custom house at Bryarly's landing, on Red river, by certain citizens of the United States, and taking away therefrom the goods seized by the collector of the customs as forfeited under the laws of Texas. This was a liquidated debt, ascertained to be due to Texas when an independent state. Her acceptance of the terms of annexation proposed by the United States does not discharge or invalidate the claim. I recommend that provision be made for its payment.

The Commissioner appointed to China during the special session of the Senate in March last shortly afterwards set out on his mission in the United States ship Columbus. On arriving at Rio de Janeiro on his passage, the state of his health had become so critical, that by the advice of his medical attendants, he returned to the United States early in the month of October last. Com. Biddle, commanding the East India Squadron, proceeded on his voyage in the Columbus, and was charged by the commissioner with the duty of exchanging with the proper authorities the ratifications of the treaty lately concluded with the Emperor of China. Since the return of the commissioner to the United States, his health has been much improved, and he entertains the confident belief that he will soon be able to proceed on his mission.

Unfortunately differences continue to exist among some of the nations of South America, which, following our example, have established their independence, while in others internal dissensions prevail. It is natural that our sympathies should be warmly enlisted for their welfare; that we should desire that all controversies between them should be amicably adjusted, and their governments administered in a manner to protect the rights, and promote the prosperity of their people. It is contrary, however, to our settled policy, to interfere in their controversies, whether external or internal.

I have thus adverted to all the subjects connected with our foreign relations, to which I deem it necessary to call your attention. Our policy is not only peace with all, but good will towards all the Powers of the Earth. While we are just to all, we require that all shall be just to us. Excepting the differences with Mexico and Great Britain, our relations with all civilized nations are of the most satisfactory character. It is hoped that in this enlightened age, these differences may be amicably adjusted.

The Secretary of the Treasury, in his annual report to Congress, will commu-

nicate a full statement of the condition of our finances. The imports for the fiscal year ending on the thirtieth of June last, were of the value of one hundred and seventeen millions two hundred and fifty-four thousand five hundred and sixty-four dollars, of which the amount exported was fifteen millions three hundred and forty-six thousand eight hundred and thirty dollars—leaving a balance of \$105,967,784 for domestic consumption. The exports for the same year were of the value of \$114,616,606; of which, the amount of domestic articles was \$99,299,776. The receipts into the treasury during the same year were \$29,769,133 56 cents; of which, there were derived from customs, \$27,528,112 70 cents; from sales of public lands, \$2,077,022 30 cents; and from incidental and miscellaneous sources, \$163,998 56 cents. The expenditures for the same period were \$29,938,206 93 cents; of which, \$8,588,157 62 cents were applied to the payment of the public debt. The balance in the treasury on the first of July last, was \$7,658,306 22 cents.

The amount of the public debt remaining unpaid on the first of October last, was seven million seven hundred and thirty-four thousand and fifty dollars and fifty cents. Further payments of the public debt would have been made, in satisfaction of the period of its redemption under the authority conferred upon the Secretary of the Treasury by the acts of July (twentieth), 1841, and of April (fifteenth), 1842, and March (third), 1843, had not the unsettled state of our relations with Mexico increased the difficulty with that power. In view of such a contingency, it was deemed prudent to retain in the treasury an amount unusually large for ordinary purposes.

A few years ago, our whole national debt growing out of the Revolution and the war of 1812 with Great Britain was extinguished, and we presented to the world the rare and noble spectacle of a great and growing people who had fully discharged every obligation. Since that time, the existing debt has been contracted; and small as it is, in comparison with the similar burdens of most other nations, it should be extinguished at the earliest practicable period. Should the state of our country permit, and especially, if our foreign relations interpose no obstacle, it is contemplated to apply all the moneys in the treasury as they accrue beyond what is required for the appropriations by Congress, to its liquidation. I cherish the hope of soon being able to congratulate the country on its recovering the more lofty position which it so recently occupied. Our country, which exhibits to the world the benefits of self-government, in developing all the sources of national property, as well as marking the permanent example of a nation free from the blighting influence of a public debt.

The attention of Congress is invited to the importance of making suitable modifications and reductions of the rates of duty imposed by our present tariff laws. The object of imposing duties on imports should be to raise revenue to pay the necessary expenses of government. Congress may, undoubtedly, in the exercise of a sound discretion, discriminate in raising the rates of duty on different articles; but the discriminations should be within the revenue standard, and be made with the view to raise money for the support of government.

It becomes important to understand distinctly what is meant by a revenue standard; the maximum of duty should not be exceeded in the rates of duty imposed. It is conceded, and experience proves, that duties may be laid so high as to diminish or prohibit altogether the importation of any given article, and thereby lessen or destroy the revenue which, at lower rates, would be derived from its importation. Such duties exceed the revenue rates, and are not imposed to raise money for the support of government. If Congress levy a duty for revenue of one per cent. on a given article, it will produce a given amount of money to the Treasury, and will incidentally and necessarily afford protection or advantage to the amount of one per cent. to the home manufacturer of a similar or like article over the importer. If the duty be raised to ten per cent. it will produce a greater amount of money, and afford greater protection. If it be still raised to twenty, twenty-five or thirty per cent., and if it is raised, the revenue derived from it is found to be increased, the protection or advantage will also be increased; but if it be raised to thirty-one per cent., and it is found that the revenue produced at that rate is less than at thirty per cent. it ceases to be a revenue duty. The precise point in the ascending scale of duties, at which it is ascertained from experience that the revenue is greatest, is the maximum rate of duty which can be laid for the bona fide purpose of collecting money for the support of government. To raise the duties higher than that point, and thereby diminish the amount collected, is to levy them for protection merely, and not for revenue. As long then, as Congress may gradually increase the rate of duty on a given article and the revenue is increased by such increase of duty, they are within the revenue standard.—When they go beyond that point, and as

they increase the duties, the revenue is diminished or destroyed, the act ceases to have for its object the raising of money to support government, but is for protection merely.

It does not follow that Congress should levy the highest duty on all articles of import which they will bear within the revenue standard; for such rates would probably produce a much larger amount than the economical adjustment of the laws would require. Nor does it follow that the duties on all articles should be at the same, or a horizontal rate. Some articles will bear a much higher revenue duty than others. Below the maximum of the revenue standard, Congress may and ought to discriminate in the rates imposed, taking care to adjust them on different articles so to produce in the aggregate the amount which, when added to the proceeds of sales of public lands, may be needed to pay the economical expenses of the government.

In levying a tariff of duties, Congress exercise the taxing power, and for purposes of revenue may select the objects of taxation. They may exempt certain articles altogether, and permit their importation free of duty. On others they may impose free duties. In these classes should be embraced such articles of necessity as are in general use, and especially such as are consumed by the laborer and the poor, as well as by the wealthy citizen. Care should be taken that all the great interests of the country, including manufactures, agriculture, commerce, navigation, and the mechanic arts, should as far as may be practicable, derive equal advantages from the incidental protection which a just system of revenue duties may afford. Taxation, direct or indirect, is a burden, and it should be so imposed as to operate as equitably as may be, on all classes, in the proportion of their ability to bear it. To make the taxing power an actual benefit to one class, necessarily increases the burden of the others beyond their proportion, and would be manifestly unjust. The terms "protection to domestic industry," are of popular import; but they should apply under a just system to all the various branches of industry in our country. The farmer or planter who tills yearly in his fields, is engaged in "domestic industry," and is as much entitled to have his labor "protected," as the manufacturer, the merchant, the navigator, or the mechanic, who are engaged as so in "domestic joint labors of all these classes constitute the aggregate of the "domestic industry" of the nation, and they are equally entitled to the nation's "protection." No one of them can justly claim to be the exclusive recipients of "protection," which can only be afforded by increasing burdens on the "domestic industry" of the others.

If these views be correct, it remains to inquire how far the tariff act of 1842 is consistent with them. That many of the provisions of that act are in violation of the cardinal principles here laid down, all must concede. The rates of duty imposed by it on some articles are prohibitory, and on others so high as greatly to diminish importations, and to produce a less amount of revenue than would be derived from lower rates. They operate as "protection merely," on one branch of "domestic industry," by taxing other branches.

By the introduction of minimums, or assumed and false values, and by the imposition of specific duties, the injustice and inequality of the act of 1842 in its practical operation on different classes and pursuits are seen and felt. Many of the oppressive duties imposed by it under the operation of these principles range from one per cent. to more than two hundred per cent. They are prohibitory on some articles, and partially so on others, and bear most heavily on articles of common necessity, and but lightly on articles of luxury. It is so found that much the greatest burden which it imposes is thrown on labor and the poorer classes who are least able to bear it, while it protects capital and exempts the rich from paying their just proportion of the taxation required for the support of government. While it protects the capital of the wealthy manufacturer, and increases his profits, it does not benefit the operators or laborers in his employment, whose wages have not been increased by it. Articles of prime necessity or of coarse quality and low price, used by the masses of the people, are, in many instances, subjected by it to heavy taxes, while articles of finer quality and higher price, or of luxury, which can be used only by the opulent, are lightly taxed. It imposes heavy and unjust burdens on the farmer, the planter, the commercial man, and those of all other pursuits, except the capitalist who has made his investments in manufactures. All the great interests of the country are not, as nearly as may be practicable, equally protected by it.

The government in theory knows no distinction of persons or classes, and should not bestow upon some favors and privileges which all others may not enjoy. It was the purpose of its illustrious founders to base the institutions which they reared upon the great and unchanging prin-

ciples of justice and equity, conscious that if administered in the spirit in which they were conceived, they would be felt only by the benefits which they diffused, and would secure for themselves a defence in the hearts of the people, more powerful than any standing arms, and all the means and appliances invented to sustain governments founded in injustice and oppression.

The well known fact that the tariff act of 1842 was passed by a majority of one vote in the Senate and two in the House of Representatives, and that some of those who felt themselves constrained, under the peculiar circumstances existing at the time, to vote in its favor, proclaimed its defects, and expressed their determination to aid in its modification on the first opportunity, affords strong and conclusive evidence that it was not intended to be permanent, and of the expediency and necessity of its thorough revision.

In recommending to Congress a reduction of the present rates of duty, and a revision and modification of the act of 1842, I am far from entertaining opinions unfriendly to the manufacturers. On the contrary, I desire to see them prosper, as far as they can be so, without imposing unequal burdens on other interests. The advantage under any system of indirect taxation, even within the revenue standard, must be in favor of the manufacturing interest; and of this, no other interest will complain.

I recommend to Congress the abolition of the minimum principle, or assumed, arbitrary, and false values, and of specific duties, and the substitution in their place of *ad valorem* duties, as the fairest and most equitable indirect tax which can be imposed. By the *ad valorem* principle, all articles are taxed according to their cost or value, and those which are of inferior quality, or of small cost, bear only the just proportion of the tax with those which are of superior quality or greater cost. The articles consumed by all are taxed at the same rate. A system of *ad valorem* revenue duties, with proper discriminations, and proper guards against frauds in collecting them, is not doubted, will afford ample incidental advantages to the manufacturer, and enable him to derive as great profits as can be derived from any other regular business. It is believed that such a system, strictly within the revenue standard, will place the manufacturing interest on a stable footing, and insure to their permanent advantage, the extension to the great manufacturing country the incidental protection which can be afforded by our revenue laws. Such a system, when once firmly established, would be permanent, and not subject to the constant complaints, agitations, and changes which must ever occur, when duties are not laid for revenue, but for the "protection merely" of a favored interest.

In the deliberations of Congress on this subject, it is hoped that a spirit of mutual concession and compromise between conflicting interests may prevail, and that the result of their labors may be crowned with the happiest consequences.

By the constitution of the United States it is provided, that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." A public treasury was undoubtedly contemplated and intended to be created, in which the public money should be kept from the period of collection until needed for public uses. In the collection and disbursement of the public money no agencies have ever been employed by law, except such as were appointed by the government, directly responsible to it, and under its control. The safe keeping of the public money should be confided to a public treasury created by law, and under like responsibility and control. It is not to be imagined that the framers of the constitution could have intended that a treasury should be created as a place of deposit and safe keeping of the public money which was irresponsible to the government. The first Congress under the constitution, by the act of the second of September, 1789, to establish the Treasury Department, provided for the appointment of a treasurer, and made it his duty "to receive and keep the moneys of the United States," and "at all times to submit to the Secretary of the Treasury and Comptroller, or either of them, the inspection of the moneys in his hands."

That banks, national or state, could not have been intended to be used as a substitute for the treasury spoken of in the constitution, as keepers of the public money, is manifest from the fact, that at that time there was no national bank, and but three or four State banks of limited capital existed in the country. Their employment as depositories was at first restricted to a limited extent, but with no avowed intention of continuing them permanently, in place of the treasury of the constitution. When they were afterwards from time to time employed, it was from motives of supposed convenience.

Our experience has shown, that when banking corporations have been the keepers of the public money, and been thereby made in effect the treasury, the government can have no guaranty that it can command the use of its own money for

public purposes. The late Bank of the United States proved to be faithless. The State banks which were afterwards employed, were still less. But a few years ago, with millions of public money in their keeping, the government was brought almost to bankruptcy, and the public credit seriously impaired, because of their inability or indisposition to pay, on demand, to the public creditors, the currency recognized by the constitution.

Their failure occurred in a period of peace, and great inconvenience and loss were suffered by the public from it. Had the country been involved in a foreign war, that inconvenience and loss would have been much greater, and might have resulted in extreme public calamity. The public money should not be mingled with the private funds of banks or individuals, or be used for private purposes. When it is placed in banks for safe keeping, it is in effect loaned to them without interest, and is loaned by them upon interest to the borrowers from them. The public money is converted into banking capital, and is used and loaned out for the private profit of bank stockholders; and when called for, (as was the case in 1837,) it may be in the pockets of the borrowers from the banks, instead of being in the public treasury contemplated by the constitution. The framers of the constitution could never have intended that the money paid into the treasury should be thus converted to private use, and placed beyond the control of the government.

Banks which hold the public money are often tempted, by a desire of gain, to extend their loans, increase their circulation, and thus stimulate, if not produce, a spirit of speculation and extravagance, which sooner or later must result in ruin to thousands. If the public money be not permitted to be thus used, but be kept in the treasury and paid out to the public creditors in gold and silver, the temptation afforded by its deposit with banks to an undue expansion of their business would be checked, while the amount of the constitutional currency left in circulation, would be enlarged by its employment in the public collections and disbursements, and the banks themselves would in consequence be found in a safer and sounder condition.

At present, State banks are employed as depositories, but without adequate regulation of law, whereby the public money can be secured against the casualties and excesses, suspensions, and dissolutions, to which, for gain, or other causes, they are constantly exposed. The Secretary of the Treasury has in all cases, when it was practicable, taken collateral security for the amount which they hold, by the pledge of stocks of the United States, or such of the States as were in good credit. Some of the deposit banks have given this description of security, and others have declined to do so.

Entertaining the opinion that "the separation of the moneys of the government from banking institutions is indispensable for the safety of the funds of the government and the rights of the people," I recommend to Congress that provision be made by law for such separation, and that a constitutional treasury be created for the safe keeping of the public money.

The constitutional treasury recommended is designed as a secure depository for the public money, without any power to make loans or discounts, or to issue any paper whatever as a currency or circulation. I cannot doubt that such a treasury as was contemplated by the constitution, should be independent of all banking corporations. The money of the people should be kept in the treasury of the people created by law, and be in the custody of agents of the people chosen by themselves, according to the forms of the constitution; agents who are directly responsible to the government, who are under adequate bonds and oaths, and who are subject to severe punishments for any embezzlement, private use, or misapplication of the public funds, and for any failure in other respects to perform their duties. To say that the people or their government are incompetent, or not to be trusted with the custody of their own money, in their own treasury, provided by themselves, but must rely on the presidents, cashiers, and stockholders of banking corporations, not appointed by them, nor responsible to them, would be to concede that they are incompetent for self-government.

In recommending the establishment of a constitutional treasury, in which the public money shall be kept, I desire that adequate provisions be made by law for its safety, and that all executive discretion or control over it be removed, except such as may be necessary in directing its disbursement in pursuance of appropriations made by law.

Under our present land system, limiting the minimum price at which the public lands can be entered to one dollar and twenty-five cents per acre, large quantities of lands of inferior quality remain unsold, because they will not command that price. From the records of the General Land Office it appears, that of the public lands remaining unsold in the several States and Territories in which they are situated, 39,105,577 acres have been in the market,