

Senate
OF THE UNITED STATES

Tuesday, November 30, 1805.

EMBARGO

[Debate on Mr. Hillhouse's Resolution for ending the Embargo, Continued.]

Mr. PICKENS'S SPEECH.

Mr. President,

The ample discussion already given to the resolution on your table, leaves me nothing to detail on the effects produced by the embargo, in regard to France, to England, or to ourselves. On the two great belligerents, practical men, who knew the characters and resources of those nations, foresaw and pronounced, that it would make no impression. This we all now know to be the fact: while we ourselves severely feel its pressure. Why, then, not remove it? Because, as we are told, those two nations have violated our neutral maritime rights; and seeing that to compel their respect for these, we imposed the embargo, and they treat the measure with contempt; to remove it would be submission. So we will endeavour to conceal our mortification; and because we cannot injure them, we will continue to punish ourselves. To renew our commerce while their decrees and orders remain uncancelled, would, we are told, be "subject and degrading submission," and that we have but this alternative, "to make war with both nations," or "continue and enforce the present suspension of commerce."

It has been justly remarked by the gentleman from Connecticut, (Mr. Hillhouse) that to run away and abandon our rights, is subject and degrading.

To make war on both the belligerents, is the most strange, Quixotic idea that ever entered into the head of a statesman. I suppose, as we have a thousand and a thousand times declared, that we have maintained an impartial neutrality towards those nations, so, to verify our declarations, we must now make war upon both impartially. And as their injuries are said to be equal, or, we will not enquire which has done us "the most harm;" so we must measure out to each an equal quantity of resentment, and give to each an equal number of blows!

In respect to our violated rights, as far as Great-Britain is concerned, those presented by the administration in the front of our claims, are

I. An exemption from impressment of all seamen on board our merchant vessels.

II. A free trade with the colonies of her enemies.

III. An exemption from capture of our vessels destined for any port of her enemies, not actually blockaded.

I am aware, sir, of the consequences of advancing anything from which conclusions may be drawn adverse to the opinions of our own administration, which by many are conceived to be indisputably just. Merely to state these questions, and to mention such arguments as the British government may perhaps have urged in their support, on her side, is sufficient to subject a man to the popular charge of being under British influence, or to the vulgar slander of being a "British Tory;" he will be fortunate to escape the accusation of touching British gold. But, sir, none of these things move me. The patrons of the miscreants who utter these slanders know better; but are nevertheless willing to benefit by the impression they make on the minds of the people.—From an early period of my life, I was zealously engaged in every measure opposed to the attempts of Great-Britain to encroach upon our rights, until the commencement of our revolutionary war; and during its whole continuance, I was uninterruptedly employed in important civil and military departments—contributing all my efforts to bring that war to a successful termination.

I, sir, am not the advocate of wrong doers, to whatever country they belong; whether emperors or kings, or the administrators of a republic.—Justice is my object, and TRUTH my guide—and wherever she points the way, I shall not fear to go.

Great-Britain has done us many wrongs. When we were colonies, she attempted to deprive us of some of our dearest birth rights; rights derived from our English ancestors; rights which we defended and finally established by the successful conclusion of the revolutionary war. But these wrongs, and all the wounds of war, were intended to be obliterated and healed by the treaty of peace, when all enmities should have ceased.

Great-Britain wronged us in the capture and condemnation of our vessels under her orders of 1793; and she has made reparation for these wrongs; pursuant to a treaty negotiated on practical principles, by a statesman, who with liberal views and real candour, sought adjustment and reparation.

At subsequent periods she has committed other wrongs: and if reparation had been demanded in the same spirit of candour and firmness which were manifested in

1794, that distinguished precedent authorises the opinion, that a like equitable adjustment and reparation might have been obtained. But after a four years negotiation, in which volumes of essays and letters have been written, it has, like the seven years negotiation with Spain, been bro't (in the language of the president) "to an issue of some sort;" that is, every subject of dispute remains as far, probably farther from adjustment, than when the negotiations were begun.

It is this disastrous issue which now enters into our deliberations. According to the statements of the administration, we are brought into a situation from which we cannot advance without war, nor retreat without dishonour. Their negotiations with France have also terminated in a similar situation and defeat.

On the two questions of the impressment of seamen on board our merchant vessels, and a trade with the enemies of Great-Britain prohibited in time of peace, the gentleman from Maryland (Mr. Smith) was pleased to read some parts of a letter, written by me last winter, to the governor of Massachusetts to be laid before the legislature—and on the latter (neutral trade) he also read the journal of the senate, which exhibited an unanimous vote declaratory of our right to that trade; and then the names of the senators (nearly being one) who voted to request the president to demand and insist on reparation for the injuries done us in violation of that right; and for this purpose to enter into amicable arrangements with the British government.

On these two questions, I should add nothing to the observations made yesterday, by the gentleman from Connecticut, but for the apparent intention of the gentleman from Maryland, to exhibit an inconsistency between my vote in the senate and the observations of my letter on the same subject.

It is sufficient for me to remark, that in the passages recited by the gentleman from my letter, my object was to shew, by exhibiting in a few words, to the view of my immediate constituents, and thro' them, to the people of Massachusetts, some of the reasons which might have influenced Great-Britain not to relinquish her ancient usage of impressing her own seamen—nor to consent that neutral vessels should carry on (as we and other neutrals were carrying on) the whole trade between the countries of her enemies in Europe and their colonies; to shew, I say, that as much was to be said on both sides, those rights as claimed by the United States, were not to be considered so clear and indisputable as to justify a war with Great-Britain; into which the proceedings of the executive, in a variety of ways, seemed calculated to plunge us.

Before I quit this subject, I will make one more observation. It appears to be generally supposed that the rule respecting the colonial trade adopted by Great-Britain, and usually called the rule of 1756, which it seems she has considered as "the ancient and established principle of maritime law," was peculiar to Great-Britain; and Mr. Madison says, "it is well known that Great-Britain is the only nation that has acted upon, or otherwise given sanction to it." He also mentions this rule as having been introduced, for the first time, in the war of 1756; as having been in operation only a few years in that war; and not afterwards acted upon until 1793. Let us examine the subject.

In Valla's celebrated work on maritime law (a book in the secretary of war's office) is a regulation of Louis the fourteenth in 1704, from which I will recite some passages.

The title of the regulation is remarkable: it is, "concerning prizes made at sea, to secure the navigation of neutral states and allies during war;"—implying that this regulation was intended to abate the rigour of maritime law before that time practised towards neutral commerce.

After observing that propositions had been made to him by the deputies of the council of commerce, the French king expresses his approbation of them; "seeing he finds in them the means which he has always sought of procuring equally the advantages of the subjects of neutral princes and French cruisers. He adds, "The subjects of neutral princes will thus find the care which his majesty has taken to preserve for them the same extent and the same liberty of commerce which they have been accustomed to enjoy during peace."

I will now read such of the articles of this French regulation as relate to this question under examination.

Article 1.—His majesty forbids French privateers to stop or bring into the ports of his kingdom vessels belonging to the subjects of neutral princes, going from the ports of their dominion, and laden on account of the owners, or other subjects of the said neutral princes, with merchandize of the growth or manufacture of their own country to carry the same directly to any

other states whatsoever, even those with which his majesty is at war; provided, nevertheless, that there be not in the said vessels any contraband goods.

Article 2.—They are in like manner forbidden to stop vessels belonging to the subjects of neutral princes, going from the ports of any state whatsoever, even of those with which his majesty is at war, and laden on account of owners or other subjects of the said neutral princes, with merchandize which they shall have received in the same country or state whence they shall have departed, to return directly into the ports of the dominion of their sovereign.

Article 3.—He also forbids them to stop vessels belonging to the subjects of neutral princes, departing from the ports of one of the states neutral or allied to his majesty; provided they are not laden with merchandize of the growth or manufacture of his own enemies; in which case the merchandize shall be good prize, and the vessel shall be released.

Article 4.—In the like manner his majesty forbids privateers to stop vessels belonging to subjects of neutral princes, departing from a state allied to his majesty or neutral, to go to a state the enemy of his majesty; provided there be not on board said vessels any merchandize contraband, nor of the growth or manufacture of the enemies of his majesty; in which cases the merchandize shall be good prize, and the vessel shall be released.

Article 5.—Vessels belonging to subjects of neutral states which shall depart from the ports of a state the enemy of his majesty, and there have taken their laden, in whole or in part, to go to the states of any other prince than their own, whether allied to his majesty, neutral, or enemy, may be stopped and brought into this kingdom, and shall be declared good prize with their lading, even although laden on account of subjects of his majesty, or of an allied or neutral state.

This regulation of Louis XIV, in 1704, (he being then at war with England and Holland) was re-enacted by Louis XV, in 1744. (France being then at war with England) with some exceptions in regard to those neutral nations with whom France had formed treaty stipulations incompatible with that regulation.

In these five articles we have, if I mistake not, the whole doctrine of the rule of 1756. The direct trade to and from neutral ports and the enemy's ports being permitted; but not the trade to and from the ports of one allied or neutral state, to and from the ports of another allied or neutral state; if the lading of the neutral vessel consist of merchandize the production of the enemy's country; much less to carry the same from one port of the enemy to another port of the enemy.

The principle of the British rule and the French regulation appears to be to prevent neutrals coming in to aid the enemy in the commerce of one part of his dominions with another part thereof, or in procuring a market for the enemy's productions, in any other country but that of the neutral actually transporting the same, and for its own use and consumption.

It appears, moreover, by the preamble to the French regulation, that the restrictions on neutral commerce, which we are now examining, instead of commencing in 1756, were in exercise by the English and Dutch antecedent to that regulation, and with greater rigour; the French king professing to ameliorate the condition of neutral commerce by that regulation.

On the subject of the blockade, when vessels of war were not so stationed before the port declared to be blockaded, as to constitute what is called an actual blockade, undoubtedly abuses have taken place.

But Great-Britain has admitted that the vessels of the United States might carry on an indirect trade from the European dominions of her enemies to their colonies, and from those colonies to their parent countries in Europe, and in both cases the trade has been considered *indirect* when carried on through the United States, that is when the cargoes laden on board American vessels, in the ports of the enemies of Great-Britain, have been first imported into the United States, and carried thence in the same or other American vessels, to the enemy's countries, or colonies respectively.—But the facts which should constitute an indirect trade, not having been definitely declared; on the contrary, as they have been several times varied, either by the orders of the British government, or by the decision of her courts of admiralty—much vexation and injury have thence accrued to the commerce of the United States.

But the treaty negotiated by the president's ministers, (Messrs. Monroe and Pinckney) and signed by them, with the British commissioners on the 31st of December, 1805, comprehend a definitive provision on this head. Such trade, between the parent countries and colonies of the enemies of Great-Britain, was to be considered *indirect*, when the articles of the growth, produce or manufacture of Europe, were first carried to the United States; and on re-exportation, remained after the drawback, subject to a duty of one per cent, on their value. In like manner, all articles of the growth and produce of the enemy's colonies, being first brought to the United States, and there entered and landed, and on re-exportation remaining subject to a duty of two per cent on their value, might be re-laden, and freely exported to any country in Europe. The duties in both cases, to be paid into the treasury of the United States.

This arrangement was calculated to prevent any further dispute between the United States and Great-Britain, about the trade between the countries of her enemies in Europe and their colonies. But the president thought fit to reject this treaty without laying it before the senate.

To form an actual blockade of a port, ships destined for that object must be "sufficiently near to produce an evident danger in entering." But these words by no means imply a certainty of capture by the blockading ships of the vessels so attempting to enter. What degree of risk from blockading ships will amount to a lawful blockade, may sometimes be a disputable question. Would the chance of capturing three vessels out of four, or seven out of eight, exhibit such an "evident danger in entering" as would constitute an actual blockade? that is, when to insure their entering in safety would be worth a premium of from 75 to 90 per cent. This must remain a question of some difficulty to adjust.

On these points, sir, and all others in dispute with Great-Britain, my opinion remains unchanged, that they are yet proper subjects of negotiation, to be undertaken in the real spirit of conciliation and adjustment. That the embargo will not induce her to yield to our demands, we have ample proof, not only in the answer of the British government to our minister in London, but in the certain ability of that nation and her colonies to supply all their own wants. That she possesses the means, I think, has been demonstrated by gentlemen who have spoken before me. We have heard much of the patriotism and patient endurance of our fellow-citizens, under the distresses of the embargo, and gentlemen speak confidently that this patience will hold out till Great-Britain shall be brought to our feet. At the same time they calculate on the distresses, which they fondly imagine the embargo will inflict on the people of Great-Britain and her colonies, so exact discontent and insurrections sufficiently alarming to induce that government to abandon usages on which she relies to maintain her maritime ascendancy, and at this time, her independence as a nation. But why should it be supposed that the people of Great-Britain will be less patient under suffering than the people of the United States?—Their would arise from causes beyond their control; ours from some cause or causes operating on our rulers, but which the people can neither see nor understand. Within four months after the embargo was imposed, the president himself, by proclamation, announced to us and to the world the existence of one insurrection, occasioned by the embargo; and the provisions made in the supplementary acts, to compel obedience at the point of the bayonet, shew how apprehensive the government were of discontent and resistance. The extraordinary provisions for the execution of a specific measure demonstrate that it was considered as opposed to the general sense of the people; and in a free country, such a measure cannot long be carried into execution. The votes of approbation of the embargo by public bodies, and other assemblies of citizens, so ostentatiously displayed, while they manifest the force of party, are, to say the least, but equivocal indications of the general sense of the people, or even of the individuals composing those assemblies. Those votes have always had fewer signatures than voices.

Mr. President, the gentleman from Maryland mentioned the extreme danger to which our commerce would be exposed, while the French decrees and British orders remain unrevoked. It has been said, and perhaps often insinuated in newspapers, and pamphlets, that if our vessels were permitted to go to sea, all would be lost. What escaped the French, would be captured by the English; and what escaped the latter, would fall a prey to the former.—There is a want of truth in all this. The same gentleman quoted a statement made by an eminent merchant of Massachusetts; [Mr. Gray of Salem] that of eight or ten vessels which sailed about the time the embargo was laid, one only had reached the place of her destination. I remember seeing a statement of that sort; and I think also, that I saw a detection of its fallacy. If they had not reached their destined ports, it did not follow that they were captured and condemned.

The same merchant has expressed his decided opinion, "that notwithstanding the French decrees and British orders in council, if our embargo was off we should have more trade than would be enjoyed by us, if all the world were at peace, and the respective nations should monopolize as much of their own commerce as usual." Another eminent merchant (Mr. Thordike, of Beverly) expressed at the same time the same opinion.

But without resting the question on opinions, we may appeal to facts. I have sought information of the risks which have attended our foreign trade, within the present year, from the two principal districts of Massachusetts.

[Mr. Pickens's Speech to be concluded in our next.]

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