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Congress.

HOUSE OF REPRESENTATIVES. Friday, May 29.

Mr. RANDOLPH thanked the gentleman from South-Carolina for the respite which he had unintentionally given him, and which in his exhausted situation was highly grateful. This war for commercial rights is to be waged against the express wish (constitutionally pronounced, spoken in language which cannot be misunderstood) of the great commercial section of the United States—a war which must cut up commerce by the roots, which in its operation must necessarily drive population and capital beyond the mountains.

Mr. CALHOUN again rose—As the gentleman had expressed his satisfaction at the rest afforded him by the former call to order, he would give him another opportunity to rest himself. He asked that the gentleman from Virginia should submit to the chair the proposition he intended to make, that the House might judge of the correctness of the course he took. If the course now taken were parliamentary, if the practice now attempted were permitted to succeed, it would be in the power of any member at any time to embarrass the proceedings of the House.

The SPEAKER (who had resumed the chair) said, that unquestionably in the opinion of the chair, the proposition might be required to be submitted in writing, because it was made the duty of the chair to require the application of observations made on the floor to the subject debated; and this duty certainly could not be performed unless the chair was apprised of the terms of the proposition.

Mr. CALHOUN. I then call upon the gentleman to submit his proposition.

Mr. RANDOLPH. The gentleman has no right to call upon me: you, Mr. Speaker, unquestionably have. My proposition is one respecting our relations with the two great belligerents, and goes to affect the question of peace or war. Whilst up, sir, permit me to observe, that if I were wide of the mark, I might have been permitted to go on—

The SPEAKER. The gentleman will please to take his seat, the chair having decided that his motion must be submitted before further debate.

Mr. RANDOLPH said he had not understood the Speaker as making any such decision.

The SPEAKER said he certainly had so decided.

Mr. RANDOLPH. My proposition is, that it is not expedient at this time to resort to a war against Great-Britain.

The SPEAKER. Is the motion seconded?

Mr. Randolph, or some other gentleman, expressed his surprise that a second in such a case should be required.

The SPEAKER said he conceived that every motion must receive a second before it could be announced from the chair. He also required that the motion be reduced to writing.

Mr. RANDOLPH. I then appeal from that decision.

The SPEAKER stated the grounds of his decision, and read the rules requiring motions when made to be seconded before put to the vote, and when demanded to be reduced to writing.

Mr. RANDOLPH said he would only remark that this right of prefixing a motion by remarks was almost the last vestige of the freedom of debate; if it were destroyed, there would be none left but under the permission of the majority.

Messrs. Pickin, Goldsborough, and Key, spoke to the question of order, and against the Speaker's decision.

The following observations of one of these gentlemen (Mr. Goldsborough) embrace the substance of the argument against the Speaker's decision:

Mr. GOLDBOROUGH said, that on all occasions of appeal from the decision of the speaker on a question of order, the first impulse of his mind was to support the chair, and it was his practice to do so in all doubtful cases. In the present instance, however, the conviction of his judgment as to the incorrectness of the decision of the honorable speaker was so clear and conclusive to himself, that he should be compelled to declare so by his vote. The substantial question submitted to the House by this appeal was, "whether a member rising in his place, and declaring his intention to submit a motion for consideration, had, or had not, a right to precede his motion with such explanatory remarks, such prefatory speech, keeping himself within the bounds of general decorum, as he might deem necessary on the occasion and pertinent to the proposition intended to be offered." The chair had, in effect, determined against this right, and on that ground had prohibited the gentleman from Virginia from proceeding in his speech. In this opinion, Mr. G. said he could not concur, and he should take the liberty to go into a short examination of its correctness. In support of it the chair had read the following rule of the House, from the printed rules and orders: "when a motion is made and seconded, it shall be stated by the speaker, or being in writing, it shall be handed to the chair, and read aloud by the Clerk, before debated."

It was perfectly evident, Mr. G. said, that this rule did not apply to the case. This rule directs the course of proceeding when a motion is made and seconded. But in the case under consideration, no motion had been made or seconded. The gentleman from Virginia had only expressed his intention to make a motion, and was offering to the house such explanatory observations as he judged proper in relation to it. This right to adopt this course was not to be sought for in the book of written rules of the house. It was, Mr. G. said, a prescriptive right, supported by the uniform usage and practice of the House from the beginning, he believed, if its political existence. He had, certainly never known it called in question before; for he well recollected instances where gentlemen had made long speeches, probably of one, two, or three hours, as prefatory to motions which they stated it to be their intention to make, and which motions it was evident were intended for no other purpose than to afford an opportunity for the speech, as they were never afterwards called up by the mover. He had never before known this privilege disturbed. The House had always acquiesced in the right, and the member been indulged with the occupancy of the floor for as long a speech as they chose to make. This privilege, sanctioned, as it certainly is, by usage—by what is frequently termed the common law of the House, Mr. G. considered as founded in principles of great propriety, in reference to other rules and practices of this House. It was an established rule of practice, of the propriety of which he would now say nothing, that no question could be brought before the House by a member, however important he might suppose it, without the vote of a majority to consider it. What change was there, he would ask, of obtaining such a vote in favor of a naked proposition, unsupported by any elucidation from the mover, to explain its object, to interest the House in its favor, or even to attract their attention to it? It is, indeed, a point of respect to the understanding of the House, to adopt this course; and hence it is invariably done. Admitting, then, the general propriety of this course—admitting the existence of the right at all, as sanctioned by the usage of the House, the only limit to its exercise must be the nature of the subject of the motion, and the judgment or inclination of the mover. If he has a right to offer explanatory remarks, to make a prefatory speech at all, he must equally have a right to regulate the length of such speech by his own sense of duty and propriety. There cannot be any other rational rule, any other proper guide as to the extent of the remarks or the length of the speech. Admit the right to exist at all, (and he would venture to say not a motion had been made even in this session, on any important subject, without the exercise of it) to what other rule than the discretion of the mover can we resort to regulate its exercise? Shall any individual member interrupt the enjoyment of this important & invaluable privilege? and shall the feelings, the whim, or the policy of the majority restrain or defeat its exercise? Shall their caprice or their irritation stop the speaker at the moment when his remarks begin to bear hard upon some favorite point of their doctrine or their policy? Reason and justice certainly forbid this resort, as the necessary, or at least the probable, result of it would be an instability and favoritism wholly inconsistent with that equality of rights which attaches to every member of this House. For these reasons, Mr. G. said, he could not give his sanction to the decision of the Honorable Speaker in this question of order; but should, by his vote, support the affirmative of this position, that a member, who is about to submit a proposition to the consideration of the House, has a right to preface his motion with such decorous remarks, and with such length and detail of explanation, as he may think proper.

Mr. WRIGHT said that the gentleman from Virginia having been called to order, and it having been decided by the Speaker that he was out of order, from which decision he having appealed, the question now to be decided by the Speaker is, was Mr. Randolph out of order? In order, sir, to a correct understanding of the subject by the House, it will be proper to revise his remarks, as well as the circumstances under which they were ushered into the House. Sir, every gentleman has a right to be heard on a subject fairly before the House, after the House has determined to consider it. But by a positive rule of the House, declared by the Speaker, no question can be received until it is made and seconded, and if required reduced to writing—nor after it is received can any question be debated until the House agree to consider it. Therefore the requiring the question to be made and seconded and committed to writing, is perfectly a matter of right, and the attempt to argue the question thus made and seconded and committed to writing, before the House had agreed to consider it, was in direct violation of the rule, and therefore out of order. But, sir, had it have been fairly before noticed, had the House agreed to consider this case, I, sir, should contend that this gentleman's remarks were themselves out of order—have we not been denounced as legislating under French influence? Yes sir, we have.

Mr. RANDOLPH called the gentleman to order. He said he had spoken hypothetically; he had said, if war did take place, it would be confirmation strong as proof from holy writ of an undue French bias. The SPEAKER said that the question of order submitted involved a matter of fact, that is, whether the gentleman from Virginia (Mr. R.) did or did not use the words ascribed to him by the gentleman from Maryland (Mr. W.) conveying an imputation of French influence which (not having been in the chair) he could not decide. He could only say that if the gentleman did use such words they were highly improper; if he did not, the gentleman from Maryland (Mr. W.) was out of order in attributing them to him. Mr. WRIGHT quoted the words used by Mr. Randolph, to which he contended his observation applicable. Sir, said he, could these remarks of the gentleman be in order? I protest against them; they are unfounded as to myself, and I have no doubt as to every member of this House. The black catalogue of wrongs sustained by the outrages of Great Britain are such, that no man, not devoted to that nation can in my judgment be at a loss for just cause of war and such as no independent nation ought to submit to.

Mr. RANDOLPH again called the gentleman to order, because discussing a question which the Speaker had declared should not be debated.

The SPEAKER said he did not perceive the direct application of the gentleman's remarks, but he appeared to be speaking in explanation of the expressions for using which he had before been called to order.

Mr. WRIGHT continued. Sir, said he, I do not admire the doctrine of recrimination, nor will I charge that honorable gentleman with being under British influence, although we see the British spies within this hall to hear this understood debate.

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Mr. WRIGHT continued. Sir, said he, I do not admire the doctrine of recrimination, nor will I charge that honorable gentleman with being under British influence, although we see the British spies within this hall to hear this understood debate.

Mr. RANDOLPH said the gentleman was again out of order.

The SPEAKER. The gentleman from Maryland will please to take his seat. If the Chair understood him correctly, he is certainly out of order. If he meant to say there was an understanding between a member of this House and a foreign agent out of it, in relation to proceedings to take place in the House, he was undoubtedly out of order.

Mr. WRIGHT disclaimed having so meant to state he meant to say, that from the attendance of these persons on the gentleman's arguments it might be fairly inferred that they were apprized of his intention to bring this subject before the House. But he hoped the privilege of these spies would in a few days be arrested. However, he should always be prepared to submit his conduct to the good sense and patriotism of the American people without a fear of its being ascribed to French or any other improper influence.

The question was then taken, to wit: "Is the de-

cision of the Speaker correct?" and determined in the affirmative—

For his decision 67
Against it 42

Mr. RANDOLPH. Then sir, I am compelled to submit my motion in writing, and under that compulsion I offer it.

The SPEAKER. There is no compulsion in the case; because the gentleman may or may not offer it, at his option.

The motion was then read from the chair in the following words:

"Resolved, That under existing circumstances it is inexpedient to resort to war against G. Britain."

Mr. RANDOLPH resumed, having asked and obtained the assent of the Chair to his proceeding in the debate on the question—

When Mr. NELSON enquired if it were in order, after a resolution was presented to the House, to debate it before the House had agreed to consider it.

The SPEAKER said he had not before adverted to the imperative terms of the rule which required a previous question of consideration, and which rule, on further reflection, he was of opinion applied to this case.

Mr. RANDOLPH appealed from this decision of the Chair. He called the attention of the House to the fact that the operation of the decision for reducing the motion to writing and requiring a second, was to deprive the person speaking of his ancient, prescriptive, he had almost said constitutional right of delivering his sentiments in some manner or other to the House. This privilege was the last vestige of the liberty of speech enjoyed in this House except the absolute will of the majority. The question of consideration itself was always of the nature of a previous question, and went to take from a member of this House that privilege, provided the House choose to exercise its power, viz. the privilege of offering his sentiments, and, if you will, his grievances to the consideration of the House and the people. This meanest beggar has a right to come here and state his grievances, and to be heard; and yet a member of the House has no such right, except at the absolute will of the majority. If the decision be confirmed, we shall have entirely departed from every principle heretofore respected in this Assembly and among those people from whom we sprung. It appears to me we have not gotten the old-fashioned liberty. When I compare the liberty of speech in the English Parliament with late usages here, I am struck with consternation, grief and dismay. I once, sir, had the honor of being under the federal regime, in what was called the reign of terror—I then enjoyed the liberty of speech. I had a right to protest against the acts of the men in power. These new discoveries in the construction of the rules of the House were, happily for the then minority unknown and unheard of. The present Secretary of the Treasury was attempted to be stopped in debate on the rule which required that no member should speak more than once to any question. That great man—and great let me call him—laughed in derision at the attempt. But not even in the year '98 was an attempt made to prevent a man from speaking at all. The decision is now, it has come, in under a new sign and a new name. Has it come to this, sir, that members of this House shall grow grey in the service, and in proportion to their experience become ignorant of the rules proceeding, and receive the construction of them from those who have never been familiar with them? After having been 14 years on this floor, is a man to be told he knows nothing of the rules of the House?

The SPEAKER requested the gentleman to confine his remarks to the question whether or not the decision of the chair was correct. Priority of seat on this floor, said the Speaker, gives to the senior members of the House no right to which the junior are not equally entitled.

Mr. R. said he only desired that the senior members should have equal rights with the junior. The decision of the chair, said he, I contend is incorrect in so far as this: that there has heretofore existed what was called the freedom of debate, which late rules and late restrictions have taken away. We are in danger of losing the liberty of speech entirely. If the decision of the chair be supported, it will indeed be the last dying speech of the liberty of speech. This was the only mode left to a member in which he could, without asking permission to do it, present himself to the House and to the nation. If this be taken away, sir, a seat in this House is not worth the having—at least to those who do not find favor in its sight.

Mr. JOHNSON spoke in reply to Mr. Randolph and in defence of the majority and of the House, which never ought to be subjected to the caprice of any individual, as it would be if the gentleman's repeal was sanctioned by the House.

Mr. MACON rose to speak to the question of order. He said he had no doubt the present decision of the Speaker was correct; but it was equally clear to him that his first decision was a wrong one.

Mr. RANDOLPH said out of respect to his friends opinion he would withdraw his appeal from the Speaker's decision.

The SPEAKER said, that he would take the occasion to remark that, at the commencement of the session, he had doubted the propriety of the rule requiring a previous determination of the House to consider a proposition, before it could be debated and decided. But he was then informed that it had been the practice of the House, and that usage he had conformed. Whatever doubts he had entertained originally of its utility had been removed by subsequent experience.

In regard to the decision, requiring a second to a motion before it was received of which there was some complaint, he understood it to be the established practice of the British Parliament. As to the alleged violation of the freedom of debate he remarked, that he should be extremely sorry, if any decision which it became his duty to make should produce unnecessarily its abridgement. He was a great friend to a legitimate and decorous freedom of debate. And whether by the House, or any determination of his, its liberty had been infringed, in the instance of any member, and particularly in reference to the gentleman from Virginia, the discussions and proceedings of the House during the present session would illustrate and attest.

The right to regulate its own proceedings, he observed was a right inherent in every public deliberative body. It was a right necessarily attaching to every body, composed of human beings, independent of positive prescription. It was a right, without the existence and exercise of which it would be impossible to proceed in business at all, or to arrive at any conclusion. But strong as was the natural basis upon which this right stands, it did not depend upon that alone. This constitution had expressly secured to each branch of the national legislature the

power to regulate its own proceedings. Whilst in the place with which he was honored, it was his pleasure no less than his duty to enforce, as far as depended upon him, the rules which the House of Representatives in the exercise of this constitutional power had thought proper to prescribe. He could have no interest but to perform, with the utmost impartiality, this trust, and in doing it he should always consult every source of information which was accessible to him.

The question was then taken on the consideration of the resolution, as heretofore stated, and lost, 73 to 37.

FROM THE OFFICE OF THE NATIONAL INTELLIGENCER, 4 O'clock, P. M. June 18, 1812.

The injunction of secrecy was about an hour ago removed from the following Message, Report or Manifesto and Act.

To the Senate and House of Representatives of the United States.

I communicate to Congress certain documents, being a continuation of those heretofore laid before them, on the subject of our affairs with Great-Britain. Without going back beyond the renewal in 1803 of the war in which G. B. is engaged, and omitting unrepaid wrongs of inferior magnitude, the conduct of her government presents a series of acts hostile to the U. S. as an independent and neutral nation.

British cruisers have been in the continued practice of violating the American flag on the great highway of nations, and of seizing and carrying off persons sailing under it; not in the exercise of a belligerent right founded on the law of nations against an enemy but of a municipal prerogative over British subjects. British jurisdiction is thus extended to neutral vessels in a situation where no laws can operate but the law of nations and the laws of the country to which the vessels belong; and a self-redress is assumed which British subjects were wrongfully detained and alone concerned, is that substitution of force, for a resort to the responsible sovereign, which falls within the definition of war. Could the seizure of British subjects in such cases be regarded as within the exercise of belligerent right, the acknowledged laws of war, which forbid an article of captured property to be adjudged without a regular investigation before a competent tribunal, would imperiously demand the fairest trial where the sacred rights of persons were at issue. In place of such a trial, these rights are subjected to the will of every petty commander.

The practice, hence, is so far from affecting British subjects alone, that, under the pretext of searching for these, thousands of American citizens, under the safeguard of public law, and of their national flag have been torn from their country and from every thing dear to them; have been dragged on board ships of war of a foreign nation, and exposed, under the severities of their discipline, to be exiled to the most distant and deadly climes, to risk their lives in the battles of their oppressors, and to be the melancholy instruments of taking away those of their own brethren.

Against the crying enormity, which Great-Britain would be so prompt to avenge if committed against herself, the U. S. have in vain exhausted remonstrances and expostulations. And that no proof might be wanting of their conciliatory dispositions, and no pretext left for a continuance of the practice, the British government was formally assured of the readiness of the U. S. to enter into arrangements, such as could not be rejected, if the recovery of British subjects were the real and the sole object. The communication passed without effect.

British cruisers have been in the practice also of violating the rights and the peace of our coasts. They hover over and harass our entering and departing commerce. To the most insulting pretensions they have added the most lawless proceedings in our very harbors; and have wantonly spilt American blood within the sanctuary of our territorial jurisdiction. The principles and rules enforced by that nation, when a neutral nation, against armed vessels of belligerents hovering near her coasts, and disturbing her commerce, are well known. When called on, nevertheless, by the U. S. to punish the greater offences committed by her own vessels, her government has bestowed on their commanders additional marks of honor and confidence.

Under pretended blockades, without the presence of an adequate force, and sometimes without the practicability of applying one, our commerce has been plundered in every sea; the great staples of our country have been cut off from their legitimate markets; and a destructive blow aimed at our agricultural and maritime interests. In aggravation of these predatory measures, they have been considered as in force from the dates of their notification; a retrospective effect being thus added, as has been done in other important cases to the unlawfulness of the course pursued. And to render the outrage the more signal, these mock blockades have been reiterated and enforced in the face of official communications from the British government, declaring, as the true definition of a legal blockade "that particular ports must be actually invested, and previous warning given to vessels bound to them, not to enter."

Not content with these occasional expedients for laying waste our neutral trade, the Cabinet of Great Britain resorted, at length, to the sweeping system of blockades under the name of Orders in Council, which has been moulded and managed, as might best suit its political views, its commercial jealousies or the avidity of British cruisers.

To our remonstrances against the complicated and transcendent injustice of this innovation, the first reply was that the orders were reluctantly adopted by Great Britain as a necessary retaliation on decrees of her enemy proclaiming a general blockade of the British isles, at a time when the naval force of that enemy dared not to issue from his own ports. She was reminded, without effect, that her own prior blockades, unsupported by an adequate naval force actually applied and continued, were a bar to this plea; that executed edicts against millions of our property could not be retaliation on edicts, confessedly impossible to be executed; that retaliation, to be just, should fall on the party setting the guilty example, not on an innocent party, which was not even chargeable with an acquiescence in it.

When deprived of this flimsy veil for a prohibition of our trade with her enemy, by the repeal of his prohibition of our trade with Great Britain, her cabinet, instead of a corresponding repeal or a practical discontinuance of its orders, formally avowed a determination to persist in them against the U. S. until the markets of her enemy should be laid open to British products; thus asserting an obligation on a neutral power to require one belligerent to encourage, by its internal regulations, the trade of another belligerent, contradicting her own practice towards all nations in