



AND

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Our are the plans of fair and peaceful peace,
Unwar'd by party rage, to live like brothers.

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MANIFESTO

Of the King of Spain, against the King of England.

Madrid, December 14, 1804.

His Excellency Don Pedro Cevallos, first secretary of state and foreign affairs, has communicated by the royal order to all his councils, under the date of the 12th, the following Manifesto:

The re-establishment of peace, which the powers of Europe had seen with so much pleasure by the treaty of Amiens, has been, unfortunately for the happiness of the people, of short duration. The public rejoicings by which they celebrated the great event were not yet finished, when war again made its appearance to trouble the public tranquillity, and the prosperity which peace offered has vanished.

The cabinets of Paris and of London held Europe in suspense, and in the indecision between fear and hope, each day the execution of their negotiations were more uncertain. At length discord lighted up between them a flame, which naturally would communicate to other powers. Spain and Holland, which treated with France at Amiens, and whose interests and political relations are so intimately united, found that it would be very difficult not to feel part of the aggressions and offences done against their ally.

In these circumstances his majesty, supported by the most solid principles of honest politics, preferred granting a pecuniary subsidy to the contingent of troops and vessels which he was bound to furnish France, in virtue of the treaty of alliance of 1796, and by means of his minister at London, and the agents of England at Madrid, made known, in the most positive manner to the British government, his decided and firm resolution to remain neuter during the war; and, for the moment, he had the consolation of seeing that this honest state of security was, in appearance, well received by the court of London.

But that cabinet who had premeditated before hand the renewal of the war with Spain, as soon as it was in a state fit to declare it, not with the formalities and solemnities prescribed by the law of nations, but by means of aggressions which might be advantageous, endeavoured, by the most frivolous pretexts, to bring in doubt the truly neutral conduct of Spain, and to give at the same time more importance to the desires of Great-Britain to preserve peace—the whole to gain time by luling the Spanish government in security, and to maintain in uncertainty the public opinion of the English people on its unjust and premeditated designs, which it could in no fashion approve of.

It was thus at London they artfully feigned to protect the different claims made by the Spaniards and their agents, and at Madrid exaggerated the pacific intentions of their sovereign; but they were never satisfied with the frank amity with which their notes were answered: they endeavoured rather to exaggerate, or to suppose armaments which did not exist, by supposing (against the most positive protestations on the part of the court of Spain) that the pecuniary succour given to France was not alone the equivalent for the troops and vessels which were stipulated for in the treaty of 1796, as if an indefinite and immense sum would permit them to consider Spain a principal party in the war.

But as it was not yet time to cause to disappear altogether the illusion they laboured at, they required as a condition for considering Spain as neuter, the cessation of every armament in her ports, and the prohibition of sales in her ports of prizes made by the French, and, notwithstanding both conditions, though solicited with too

haughty a tone and one seldom used, were immediately and vigorously accomplished, they persisted nevertheless to manifest mistrust, and the agents left Madrid in haste, after having received dispatches from their court, without having made any communication of their contents.

The contrast which results from all this, between the conduct of the cabinets of Madrid and London, will suffice to manifest clearly to all Europe the bad faith and the hidden and perverse views of the English ministry, though they did not manifest it themselves until four Spanish frigates, navigating with that security which peace inspires, were actually attacked, surprised, and taken by orders of the English government, which were signed at the same moment in which it had required conditions for the prolongation of peace, in which it gave all the security possible for the maintenance of it—and while their vessels were provisioning themselves and receiving refreshments in the ports of Spain.

These same vessels, which enjoyed the most complete hospitality there, proved the good faith, with which Spain assured to England the sincerity of her engagements, and the firmness of her resolutions to maintain the neutrality. These same vessels then carried in the breasts of their commanders the iniquitous orders of the English cabinet to seize Spanish property on the seas. These iniquitous orders circulated profusely, since all their vessels of war in the American and European seas, seized and carried into their ports all the Spanish vessels they met with, without respecting even those which were loaded with grain coming from all parts to the succour of a faithful nation, in a year of misery and calamities.

They have given the barbarous orders, for they merit no other name, to sink all the Spanish vessels which are not above one hundred tons burthen, to burn those which shall be driven on the coasts, and to seize and to carry to Malta only those which exceed one hundred tons—Such was the declaration made to the master of a Valencian vessel of fifty-four tons, who saved himself in his boat on the 26th of November on the coast of Catalonia, when his vessel was sunk by an English vessel, after the Captain had taken her papers and colours, and had told him that he had received such positive orders from his court.

Notwithstanding these atrocious facts, which prove most evidently the ambitious and hostile views which the cabinet of St. James had premeditated, it endeavours to bring forward its perfidious system of blinding the public opinion;—alleging for this purpose, that the Spanish frigates have not been brought into England in quality of prizes, but as hostages, until Spain gives assurance that she will observe the strictest neutrality.

Ah! what great assurance can or ought Spain to give? What civilized nation until the present time has made use of such injurious and violent means to require sureties from another? Suppose that England had something further to require from Spain, in what manner would she excuse herself after such an attack? What satisfaction can she give for the disastrous loss of the frigate La Mercedes, with all her cargo, crew, and a great number of passengers of distinction, who have been the innocent victims of such a detestable policy?

Spain would never satisfy what she owes to herself, nor believe herself able to maintain her honour among the other powers of Europe if she shewed herself any longer insensible to such outrages, and if she did not endeavour to avenge them with that energy and dignity which are proper.

The King, encouraged by these sentiments, after having exhausted in preserving peace, all the resources compatible with the dignity of his crown, finds himself under the hard necessity of making war on the King of Great-Britain, and on his subjects and people, suppressing the accustomed formalities concerning the solemn publication, as the English cabinet began and continues to make war without declaring it.

In consequence, his majesty after having laid an embargo, by way of reprisal on all the English property found in his dominions, has ordered that there shall be sent to the Viceroy, Captains General, & other Commanders, as well on sea as by land, the most proper orders for the defence of his kingdoms, and for hostilities against the enemy. The King has ordered his minister resident at London to retire with all the Spanish legation. His majesty does not doubt that when his subjects shall be informed of the just indignation which the violent conduct of England ought to inspire him with, they will spare no means, of all those their valour will suggest, to contribute with his majesty in the most complete vengeance for the insult committed on the Spanish flag.

To this end, he orders them to arm to cruise against Great Britain, and to possess themselves with courage, of their vessels and property, and grants them the most extensive powers.

His majesty offers at the same time, the greatest celerity for the adjudication of prizes, for which they shall only be obliged to prove the property English. His majesty renounces expressly in favour of the concerned, (armateurs) all the duties which on like occasions he reserved to himself from such prizes, so that they shall enjoy them entire and without any deduction.

Lastly—his majesty has ordered that all that is above written shall be sent to the ambassadors and ministers of the King at foreign courts, to the end that all persons may be informed of the facts, and that they may interest themselves in this so just a cause, hoping that divine Providence will bless the Spanish Arms, and enable them to obtain just and proper satisfaction for the injuries Spain has received.

DEBATE

On the Georgia Claims

MR. ELLIOT. It cannot but be considered as a very fortunate circumstance, and one which cannot fail to have a favourable influence on the final decision of this important question, that since the delivery of the animated observations which yesterday so powerfully attracted the attention of the House, we have been afforded a few hours of tranquil retirement from the tempest of the forum, for the purpose, useful at all times, and peculiar so at the present time, of calm reflection. To transfer ourselves in a moment from the flowery fields of fancy, to the rugged road of argument, to descend instantaneously from the elevated scenes of eloquence to the humble walks of common sense, requires an effort transcending ordinary powers. It is time to banish from these walls that idle frippery of ceremonious conversation, which is suited only to a new year's compliment, of a birth day salutation, and to try to catch a little of the sturdy spirit of antiquity. A bold, a loud, an impressive appeal is made to the American people: In that appeal I fearlessly and most cordially unite. I regret, however, the existence of a precedent which at once justifies and demands these addresses to the people. Much as I wish to disseminate correct information, particularly on a subject which I believe is but imperfectly understood without these walls, except by interested persons, and convinced as I am that the subject is understood, and

an opinion formed upon it by every member of this House, I shall not so completely follow the example before us as to speak to the people in the first instance, but shall as usual direct my observations to the House.

I propose to examine, in a concise, and if it be in my power, in an argumentative manner, the following questions, which have a direct application to the amendment proposed by the gentleman from Virginia (Mr. Clark) to the resolution under consideration and which at the same time open to view the whole extent of the subject.

Did the state of Georgia, in the year 1795, possess a title to the territory in question?

Were the legislature of Georgia in 1795, invested with the constitutional power of making a sale of the territory, and did they make such sale to those from whom the present claimants derive their title or pretended title? And if such sale was made, what title or colour of title did it convey?

Were the members of the legislature of Georgia, in 1795, invested with the constitutional power of rescinding the acts of their predecessors in relation to such sale, and did they rescind them?

Were the claims or pretended claims of the present claimants in any manner recognized by the act of cession of the territory in question from Georgia to the United States? And,

Do justice and policy, or either justice or policy, require that the whole or any part of the five millions of acres, reserved by the act of cession from Georgia to the United States, for the purpose of satisfying claims of a certain description against Georgia, in reference to the said territory, should be appropriated for the purpose of satisfying the claims of the present claimants?

However extensive the outline which I have sketched of the subject, the survey will be a rapid one.

It is necessary that I should make one or two preliminary observations, I have uniformly been opposed to the doctrine which has been so powerfully advocated, that Congress is competent to make a legislative decision upon the validity or invalidity of the conflicting acts of Georgia. We possess no such powers. But as individuals we may express our opinions. Nor am I disposed to do any thing which shall have a tendency to impugn the title of the United States to this territory. Without deciding the question of title, my principal object is to shew, that the claimants are in possession of so strong a colour of title, that it will be good policy to authorise a negotiation with them for the abandonment of their claim, especially as we have a prospect of obtaining that abandonment on their part without going beyond the reservation in the act of cession, and of course without the actual expense of a single dollar to the U. S.

Did Georgia, in 1795, possess a title to the territory in question?

To answer this enquiry, it is only necessary to make one or two quotations from the articles of agreement and cession, entered into on the 24th of April 1802 between the commissioners of the United States and those of Georgia. In the first article "the state of Georgia cedes to the U. States all the right title and claim, which the said state has to the jurisdiction and soil of the lands situated within the boundaries of the United States south of the state of Tennessee," &c. By the second article, "The United States accept the cession above mentioned, and on the conditions therein expressed; and they cede to the State of Georgia whatever claim, right, or title, they may have to the jurisdiction or soil of any lands lying within the United States, and out of the proper boundaries of any other state, and situated south of the southern boundaries of the states of Tennessee, North-Carolina and South-Carolina, and east of the boundary line herein above described as the eastern boundary of the territory ceded by Georgia to the United States."

Whatever claim or title the United States might previously have had to the territory, they thought proper in 1802, to combine with it, and to fortify it, by that of Georgia; and

surely we shall not do any act, or adopt any principle, tending to impair the title under which we now exercise jurisdiction over the Territory.

Were the legislature of Georgia, in 1795, invested with the constitutional power of making a sale of the territory, and did they make such sale to those from whom the present claimants derive their title or pretended title? And if such sale was made, what title or colour of title did it convey?

In this age of political revolution and reformation, for I consider it as an age of reformation as well as revolution, there are still certain principles and maxims, not merely venerable for their antiquity, but consecrated by their conformity to the common sense and reason of mankind, which are considered as universal in their application, and irresistible in their influence. Among these may be numbered the principles which attach to the government of every regularly organised community, the power of pledging the public faith, and that of alienating the right of soil of the vacant territory of the nation. In every free government there must exist the power of legislation or of making laws, a distinct power charged with execution of the laws, and a judicial power. The union of these different powers in the same man or body of men is the very essence of despotism. Thus in France, prior to the revolution, it was a fundamental maxim of state that the king was the legislator of the French monarchy; and the power exercised in some instances by certain parliaments of refusing to register the edicts of the monarch, however in practice it might operate as an obstruction to legislation, was in theory only a matter of form, or at most but a temporary check upon the executive power. In oligarchies, the legislative power is vested in the rich and noble, and in aristocracies, in a few individuals who are presumed to be the wisest and the best in the community. In governments of democratic form, this power resides in the great body of the people, and is exercised by themselves or their representatives.

The base of the temple of American liberty is democracy, or the sovereignty of the people. Representation and confederation are the principal pillars which support the great superstructure. As the state governments are unquestionably representative democracies, the general government is a representative federal republic. In every government of the representative form, the representatives of the people are vested with power to pledge the public faith, and to alienate the vacant territory of the nation. Were the members of the legislature of Georgia, in 1795, invested with this authority? Certainly it was within the sphere of those constitutional rights and powers which had never been surrendered to the general government. We have since recognized that authority, by receiving a solemn deed of cession of the territory, from a subsequent legislature of Georgia transferring to us not only the soil, but the right of jurisdiction. Was this authority exercised in 1795? In the act of the legislature of that state of the 7th of January in that year, granting this territory to those from whom the present claimants derive their claims, certain lands are described, and it is enacted that those lands shall be sold to such and such persons, as tenants in common, and not as joint tenants. The lands shall be sold, or in other words, the right of soil shall be alienated. A proper distinction is taken between the *dominium utile* and the *dominium directum* of the civilians. No transfer was made of the right of jurisdiction, although such imaginary transfer forms a prominent article in the reasons assigned by the legislature of 1796 for passing the rescinding act. From this view of the subject, whatever may be the present state of the question of legal title, who can doubt that the present claimants, honest purchasers from the original grantees, on the faith of an independent state, and innocent of fraud, if fraud existed, possess such a colour of title, such an equitable claim, as to render it prudent and politic to enter into a compromise with them upon reasonable terms? [See last Page.]