



AND

## North-Carolina State Gazette.

Days are the plans of fair delightful Peace,  
Unwar'd by party rage, to live like Brothers.

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From the National Intelligencer.

Review of Mr. Smith's Address.  
(CONTINUED.)

Article 4 and 6. *Non intercourse act* of the last session. Mr. Smith should have said *non-importation act*. He says it was introduced by presidential influence; another *ipse dixit* of our random author, which, according to the rule of evidence we have already established, cannot be admitted without proof; and he has given none.

But no matter; let us examine the act upon its merits, with its attendant circumstances. This act was certainly a proper one if the French government had revoked its decrees in strict conformity to the provisions of the former act pledging the U. States; or if it tended more effectually to attain the object of Congress in that previous act.

We know it had been the aim of our government for two or three years to divide the belligerents by inducing one or the other of them to revoke its edicts, so that the example would lead to a revocation by the other, or our contest be limited to a single one. And it should be remarked that each of them had promised to be the second to revoke, but each seemed unwilling to be the first.—Accordingly our law of May, 1810, offered to the power first revoking a non-importation against the other. France then revoked, as by her declaration of the 5th August. The President's proclamation in pursuance of the law, put the non-importation in force against the other belligerent.

Had France forfeited her claim to this measure when Congress confirmed and enforced it by the act of the last session? So far as believed or ascertained, she had not. Mr. Smith knows that no evidence existed of a single act of the French government or its courts, showing that the decrees were not repealed, so far as the repeal was required by the offer of Congress and accepted by France. Doubts had indeed arisen as to the time the repeal would take effect; whether the 1st of November or the first of Feb'y following. Although even this was not admitted by France, yet there was room for question and discussion which might have embarrassed the execution of our laws. Hence the expediency of settling the matter by a positive statute; unless it would have been advisable to risk national honour by breaking a contract on doubtful ground, or to hunt for a flaw on the other side to enable us to annul an arrangement (sought by Congress itself in a former law) producing, though three months later than had been first expected, the example of one belligerent to wield against the other.

It is said by Mr. Smith that the act for enforcing the arrangement departed from the arrangement. If it did so, it was in relation not to the essence of the arrangement, but merely as to the time of its mutual execution. And we the public shall better understand the matter when the explanation which we perceive was sent with the act, and which must have been at least signed by Mr. Smith, shall come before us.

"It is a sorrowful truth (says Mr. Smith) that the act did not provide for several obvious cases wherein our merchants, &c. Did he take any steps to cause such provision to be introduced? If his official squeamishness prevented him from even hinting the case to any member of Congress, yet, as he professes to be for open and direct recommendation in all cases by the Executive, did he propose or hint any such provision to the President, which his office enabled him to do? We must conclude that he did not; because he has given sufficient proofs that no official delicacy would have suppressed the boast of it which his vanity would have prompted. In this as in other instances, he contents himself with the merit of finding out faults when too late to amend them, and foreseeing events after they have happened.

Mark his equivocations and evasions on the French repeal and the President's proclamation. "If the revocation did actually take place as declared by the proclamation, then it became a compact," &c. "If however, the emperor of the French did not in fact revoke, as declared by proclamation, the act of May did not become a compact," &c.—Why thus shrink from an opinion whether the proclamation was legal and proper or not? No man would be safer than Robert Smith in expressing one or

the other of these opinions; for he could certainly find plenty of persons who could witness his having entertained either or both of them, as the political horizon varied and the tide of party set.

Many of our merchants and ship-masters have suffered and still suffer very unjustly by French spoliations. They cry out that the Berlin and Milan decrees are not revoked; and Mr. Smith joins them in the clamor, thereby confounding the two maritime decrees with the municipal decree confiscating American property which arrived in France, which had not been restored nor promised to be restored. This confusion of distinct and separate facts might be an honest mistake in them. But Mr. Smith would not thank us for supposing it so in him, since he seems quite as anxious to be thought sagacious as to be thought honest.

This subject deserves some development.

It has been the practice of our government to distinguish between belligerent maritime edicts violating our neutral rights, and edicts authorizing other depredations on the property of our citizens. It has even admitted the distinction, for the time being, between the revocation of them as to the future, and indemnity for past spoliations committed under them. They have also kept separate from these maritime orders and decrees, other wrongs of various sorts arising from iniquitous confiscations on land, some from acts rendered unlawful from their being insidious and ex post facto, and others uniting both characters, being unlawful in themselves as well as insidious and retrospective.

The French decree of March, 1810, which committed such barbarous and extensive spoliations on our commerce arriving in the ports of France, owes its enormity and its turpitude chiefly to its being retrospective and ensnaring.—With a previous and sufficient notice the French government had a right to modify or forbid our commerce with France (no treaty restraining it) as it pleased. We might reproach the unfriendliness of such an exercise of sovereignty. But we could not in strictness arrange such municipal spoliations under the head of violations of our neutral rights, nor of consequence regard them as contemplated by the act of Congress defining the acts whose revocation would satisfy the conditions of that act.

In like manner, the British government was chargeable with various extensive depredations on American commerce, which, besides being violations of our commercial rights on the high seas, were also ex post facto and insidious; the more so in some instances as contradicting previous assurances.—What other character can be given to all the proclamation blockades, as communicated to our ministers, to take effect from the day of such communication?

So again in the case of the immense captures and confiscations in the year 1805, which kindled such a flame thro' the United States and among all our political parties. In this instance the British government had regularly declared to Mr. King that colonial produce entering our ports and paying duties might be safely exported. This information had been duly published for the information of our merchants, and under the faith of it they proceeded on foreign voyages. No sooner, however, were they lulled to security and gone within the grasp of British cruisers and courts, than they became a prey to insidious and retrospective orders to the amount of many millions.

What in this respect was the British order of the 7th January, 1807? On the 31st December preceding, our negotiators there were told that some such measure must take place if the U. States did not oppose the Berlin decree. Seven days after, out came the order forbidding to our vessels the trade from one port of Europe to another—thus retrospectively and insidiously, as well contrary to our neutral rights, making prey of all vessels then out, or to go out before a knowledge of the order could cross the Atlantic.

Under this proceeding it is well known that great numbers were seized and sent into British ports. It is true that before they were to be liable to condemnation a warning under the order was to be given; but in many cases a return home was equivalent to a total loss, and in all cases the great partial loss was the effect of the retrospective and ensnaring measure.

One other instance may be added. In April, 1804, the British Minister, Mr. Merry, communicated to our government an instruction from his government to the naval commanders and courts in the West Indies, "not to consider any blockade of those islands as existing, unless in respect of particular ports which may be actually invested, and not then to capture vessels bound to such ports, unless they shall have been previously warned not to enter them."

On the same day he communicated a blockade of the island of Curacao, with an assurance that "the blockade would be conducted conformably to the above instructions." The blockade was not conducted according to the rule laid down; and every vessel bound to Curacao was captured by British cruisers and condemned by British courts.

Notwithstanding these extensive depredations of Great Britain, aggravated by the consideration that they were thus retrospective and ensnaring, the arrangement with the British minister Erskine was made without even bringing them into the negotiation for the repeal of the orders in council, much less making indemnity for them a prerequisite, which the law would not in fact have authorised.

In the late arrangement for the repeal of the French decrees, indemnity for the retrospective and insidious spoliations in France was not therefore made a condition; it was no more than what both law and impartiality required. In bringing the subject into the negotiation and pressing it in the manner we have seen it done, the Executive gave the strongest proof of zeal and exertion for the rights of the nation and the interests of the merchants; and to make it a charge that more was not done, more even than the law justified, is as absurd as it is unjust.

In looking carefully over the extracts of the two letters of June 5 and July 5 to Gen. Armstrong (which we should take for granted were written by the Secretary himself if Mr. Smith had not been Secretary) we perceive a struggle between an anxiety to extort from the occasion an indemnity for past wrongs and a security against future ones, and a respect for the law as well as for the rule of impartiality towards the two belligerents.

Mr. Smith has not given us the sequel of these two inst. actions to Gen. Armstrong. We may suppose therefore, especially from the date of the latter, which seems most positive in its language, that they were not received in time to be used before the declaration of the repeal of the French decrees was made by the Duke of Cadore on the 5th of August. That declaration was understood by Gen. Armstrong and by our Executive to be a compliance with the conditions of the act of Congress and binding as an arrangement on both sides—and was it to be set aside because it did not provide for the case of those retrospective spoliations? To have done so would have contravened the law and the policy of Congress; it would set up a rule in the arrangement with France different from what had been observed in the arrangement with England; and it would have led to the embarrassment of obliging the Executive, in case the British government should be desirous of opening a free trade with the United States by repealing its orders, to make it a prerequisite that Great Britain also should indemnify for her retrospective spoliations.

While Mr. Smith is dealing out his retrospective charges and insinuations, the question again occurs, Did he approve or disapprove himself the proclamation of Nov. 2 which closed the arrangement without any provision for indemnity? It is a question which can only puzzle him in its result; because, as already intimated, whether he says yes or no or both, he will have the merit of consistency with what he has often said in society.

Much credit is claimed for the letter of June 1810 to Gen. Armstrong, as "prepared" by Mr. Smith, but rejected by the President and replaced by a substitute dictated by himself. This letter is believed not to have been written by Mr. Smith, but it is nevertheless entitled to the praise of being well written, as a calm argumentative communication. There are, however, particular passages and expressions which may help to account for its unfavorable reception by Mr. Madison. Take for example the following: "Had France interdicted to our vessels all the ports within the

sphere of her influence, and had she given a warning of equal duration with that given by our law, there would have been no cause of complaint on the part of the U. States." What! no cause of complaint? The U. States, it is true, could not complain of it as a violation of their neutral rights and national sovereignty, obnoxious to the resentment of the other belligerent: but would it be consistent with friendship, with liberality, with reciprocity, with the spirit of common intercourse among civilized nations?

Compare this concession of Mr. Smith with his letter to Gen. Turreau (equally prepared by this wonderful statesman) in which such an exclusion of our trade is complained of as essentially unfriendly, as equivalent even to the two maritime decrees, and, if substituted for them, as being "a change of the mode only and not of the measure." And it is to be noted that all the observations in this letter were required by the last paragraph to be presented to the French government.

But the best explanation of the non-adoption of this letter by the President is its deficiency in the expression of that "sensitivity to the insults and injuries" to which it relates, and which Mr. Smith says he feels, whenever it suits his purpose to insinuate that the President does not feel it. The letter substitutes professed argument for condensed and dignified animadversion. The reader must recollect too that this letter was to follow the one that had just been presented to the French government by General Armstrong on the same subject. It was of a character to dilute the spirit of his strictures; whereas the substitute, directed by the President, adopted the letter of Armstrong, and postponed farther animadversions till farther intelligence, daily expected, might aid in adopting them to the actual state of things.

The last remark of Mr. Smith on this head is too frivolous for grave debate: it is that the substituted paragraph was intended for Mr. Armstrong himself. We all know, at least all of us that are in the habit of reading printed documents, that this is the usual course. The government puts its own sentiments into the hands of its minister, and leaves to his discretion the manner and the occasion proper for using them.

Article 7. *Letter to General Turreau.* We cannot but think that Mr. Smith is unlucky in the choice of materials out of which he has framed his book. Surely, in the course of his two great years, he has done better business than write or "prepare" such unguarded letters as this. By laying this letter before us now, he recalls to our recollection the mischief it has done in furnishing to the British government a pretext for persisting in its orders in council. That it had this effect in a great degree we all know from the clamor of the British partisans in America and from the court papers in London; and he as Secretary of State must have been informed of this mischief through a more authentic channel.

With what propriety could Mr. Smith declare that a substitution of municipal prohibitions for the Berlin and Milan decrees was a change of the mode only and not the measure; when the municipal prohibitions related simply to our trade with France, and was a misuse of her own sovereignty, while the decrees related to our trade with G. Britain and with all the world and was a violation of our sovereignty. The decrees were an insufferable invasion of our neutral rights, an acquiescence in which would justly expose us to the animadversions of other belligerents to whom they were injurious; the municipal prohibitions, though unfriendly to us, and to be repelled by negotiation or otherwise, as we should think fit, regarded us alone, having nothing to do with G. Britain; they therefore could not become a pretext for continuing her orders in council.

Mr. Smith informs us that the President would not suffer this letter to pass till he inserted some clauses with a view to obviate the mischievous tendency above mentioned. We can easily point out the passages thus inserted by Mr. Madison. We only regret that he had not written it all or suppressed it all.—The Ex-Secretary complains that he was often opposed, reined in and goaded on by the President. An animal with longer ears than Mr. Smith's or ours, could he speak to his master as he once did, would utter the same complaint:

Article 8. *The projected letter to Mr. Serrurier.* It is true, the expectation of intelligence from this new minister excited solicitude on his arrival. But it was soon found that he had been so long on his way (nearly four months from Paris) we could hope to learn but little from him; in fact we had already received later accounts than he could bring.

What was the object of Mr. Smith's interrogatories intended to be put to him? It was to learn: 1. Whether the obnoxious decrees were revoked; 2. what were the municipal regulations as to our trade with France; 3. whether he was instructed to give assurances or explanations as to the confiscations under the Rambouillet decree.

He speaks of a conference having taken place between him and the minister; but does not suggest that any thing had passed therein contradicting the revocation; it may be inferred therefore that Mr. Serrurier did not contradict it. Mr. Smith states in another place as follows: "from the information received by Mr. Madison prior to the date of the non-intercourse law, it was at the time of passing, it evident to my mind that the Berlin and Milan decrees had not been revoked, as had been declared by the proclamation."

This law passed the 2d of March, on the eve of the adjournment of Congress. Why does not Mr. Smith tell us what the information was, from what authority and when received? He would have done well also to let us know to whose mind besides his own it was evident that the decrees were not revoked; at least so far as they entered into the question between the U. States and G. Britain.

The next object of the catechism to Serrurier was the state of the municipal regulation of trade. Here also he is silent as to what passed in the conference, altho' in his letter to Turreau these regulations were the test of our obligation to put in force the non-importation against Great-Britain. All that Turreau could say on the subject was already known to Congress; and there was no reason to suppose that Serrurier knew more than Turreau.

The last object was to learn if Mr. Serrurier was instructed by his government to say whether the Rambouillet decree spoliations would be restored; Mr. Smith affirms that the French government did officially and formally communicate through Mr. Serrurier its fixed determination not to restore.—What! Officially and formally! Who says so? Mr. Smith. But Mr. Serrurier says no; HE COMMUNICATED NO SUCH THING! We will however let Mr. Smith off this once by supposing that he might have misunderstood the French Minister; as they were strangers to each other's language and conversed through an interpreter. But even if this supposed communication had passed in conversation, which according to our understanding of diplomatic rules is always considered as *informal* and *unofficial*, why does Mr. Smith, in the grave tone of a printed book, which he takes three months to write, endeavor to palm it on the public as a thing that had the stamp of a public document, a written diplomatic note, signed, sent, received and filed in the Department of State? Any person who should hear such an assertion from a person who had filled the high office of Secretary of State, without knowing who he was, would naturally and almost necessarily conclude that such a communication did really pass and pass in this manner.

We will now ask Mr. Smith as a statesman, what was his object in making to Mr. Serrurier this string of interrogatories, which the President would not let him send? Was it not morally certain that the French minister, suspecting the drift of such close questions, would use diplomatic caution and give answers calculated to defeat their purpose? Was it politic to draw that minister and his government into a commitment against our claims, especially if negotiations were pending, as we suppose, and as Mr. Smith doubtless knew? Was it to be presumed that, whatever answer he might give, it would be permitted by Congress to interfere with the non-importation act with which it had no stipulated relation?

Suppose Mr. Serrurier had said that no indemnity for the passed would be made, would it have been consistent with the terms and object of the compact for us to violate it on that account? Would it have been consistent with the conduct of the U. S. in the arrangement