



“Ours are the plans of fair, delightful Peace,
“Unwar’d by party rage, to live like Brothers.”

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DOCUMENTS

Accompanying the President's Message.
[Continued.]

Letters of Mr. PINKNEY, our late Minister to G. Britain, to the SECRETARY OF STATE.

MR. PINKNEY TO MR. SMITH.

London, Jan. 17, 1811.

SIR—I had the honor to receive on the 5th inst. while I was confined by a severe illness, your letter of the 15th of November, and as soon as I was able, prepared a note to Lord Wellesley, in conformity with it.

On the 3d. inst. I had received a letter from Lord Wellesley, bearing date the 29th ult. on the subjects of the Orders in Council and the British Blockades, to which I was anxious to reply, at the same time that I obeyed the orders of the President signified in your letter above mentioned. I prepared an answer accordingly, and sent it in with the other note, and a note of the 15th respecting two American schooners lately captured on their way to Bourdeaux, for a breach of the Orders in Council. Copies of all these papers are enclosed.

My answer to Lord Wellesley's letter was written under the pressure of severe indisposition, and the influence of more indignation than could well be suppressed. His letter proves, what scarcely required proof, that if the present government continues, we cannot be friends with England. I need not analyse it to you.

I am still so weak as to find it convenient to make this letter a short one, and will therefore only add, that I have derived great satisfaction from your instructions of the 15th of November, and have determined to return to the United States in the Essex. She will go to L'Orient for Mr. Grayson, and then come to Cowes for me and my family. I calculate on sailing about the last of February. The choice of a Charge des Affaires embarrasses me, exceedingly—but I will do the best I can. The dispatches by the Essex were delivered to me by Lieu. Rodgers, on Sunday. I have the honor to be, &c.

LORD WELLESLEY TO MR. PINKNEY.

Foreign Office, Dec 29, 1810.

SIR—In acknowledging the receipt of your letter of the 10th inst. I must express my regret that you should have thought it necessary to introduce into that letter any topics which might tend to interrupt the conciliatory spirit in which it is the sincere disposition of his Majesty's government to conduct every negotiation with the government of the United States.

From an anxious desire to avoid all discussions of that tendency I shall proceed without any further observation to communicate to you the view which his Majesty's government has taken of the principal question which formed the object of my enquiry, during our conference of the 5th inst. The letter of the French Minister for Foreign Affairs to the American Minister at Paris, of the 9th August 1810, did not appear to his Majesty's Government to contain such a notification of the repeal of the French Decrees of Berlin and Milan as could justify his Majesty's Government in repealing the British Orders in Council. That letter states, “That the Decrees of Berlin and Milan are revoked, and that from the first of November, 1810, they will cease to be in force, it being understood that in consequence of this declaration, the English shall revoke their Orders in Council and renounce the new principles of Blockade which they have attempted to establish.”

The purport of this declaration appeared to be that the repeal of the decrees of Berlin and Milan would take effect from the 1st of November, provided that G. Britain, antecedently to that day and in consequence of this declaration, should revoke the Orders in Council, and should renounce those principles of Blockade which the French government alledged to be new. A separate condition relating to America, seemed also to be contained in this declaration, by which America might understand that the decrees of Berlin and Milan would actually be repealed on the first of Nov. 1810, provided that America should consent any refusal of the British Government to renounce the new principles of Blockade and to revoke the Orders in Council.

By our explanation it appears that the American Government understands the

letter of the French Minister as announcing an absolute repeal on the 1st Nov. 1810, of the French Decrees of Berlin and Milan—which repeal, however, is not to continue in force, unless the British Government, within a reasonable time after the 1st of Nov'r, 1810, shall fulfil the two conditions stated distinctly in the letter of the French Minister. Under this explanation, if nothing more had been required of G. Britain, for the purpose of securing the continuance of the repeal of the French Decrees than the repeal of our Orders in Council, I should not have hesitated to declare the perfect readiness of this government to fulfil that condition. On these terms the British Government has always been sincerely disposed to repeal the Orders in Council. It appears, however, not only by the letter of the French Minister, but by your explanation, that the repeal of the Orders in Council will not satisfy either the French or the American Government. The British Government is further required by the letter of the French Minister, to renounce those principles of Blockade which the French Government alleges to be new. A reference to the terms of the Berlin Decree will serve to explain the extent of this requisition. The Berlin decree states that Great Britain “extends the right of blockade to commercial unfortified towns—and to ports, harbors and mouths of rivers, which according to the principles and practice of all civilized nations, is only applicable to fortified places.” On the part of the American Government, I understand you to require that Great Britain should revoke her order of blockade of May 1806. Combining your requisition with that of the French Minister, I must conclude, that America demands the revocation of that order of blockade as a practical instance of our renunciation of those principles of blockade that are condemned by the French Government. Those principles of blockade G. Britain has asserted to be ancient and established by the laws of maritime war, acknowledged by all civilized nations, and on which depend the most valuable rights and interests of this nation. If the Berlin and Milan decrees are to be considered as still in force, unless Great Britain shall renounce these established foundations of her maritime rights and interests, the period of time has not yet arrived when the repeal of her Orders in Council can be claimed from her, either with reference to the promise of this government, or to the safety and honor of the nation. I trust that the justice of the American Government will not consider, that France by the repeal of her obnoxious decrees under such a condition, has placed the question in that state which can warrant America in enforcing the non-intercourse act against G. Britain and not against France. In reviewing the actual state of this question in America cannot fail to observe the situation in which the commerce of neutral nations has been placed by many recent acts of the French G. v't. Nor can America reasonably expect that the system of violence and injustice now pursued by France with unremitting activity, (while it serves to illustrate the true spirit of her intentions) should not require some precautions of defence on the part of Great Britain.

Having thus stated my view of the several considerations arising from the letter of the French minister, and from that with which you have appeared me, it remains only to express my solicitude that you should correct any interpretation of either which you may deem erroneous. If, either by the terms of the original decree to which the French Minister's letter refers, or by any other authentic document, you can prove that the decrees of Berlin and Milan are absolutely repealed, and that no further condition is required of Great Britain than the repeal of her Orders in Council, I shall receive any such information with most sincere satisfaction, desiring you to understand that the British Government retains an anxious solicitude to revoke the Orders in Council, as soon as the Berlin and Milan decrees shall be effectually repealed, without conditions injurious to the maritime rights and honor of the United Kingdom.

I have the honor to be, &c. &c.

MR. PINKNEY TO LORD WELLESLEY.

Great Cumberland Place, Jan. 14, 1811.

My Lord,—I have received the letter which you did me the honor to address to me on the 29th of last month and will not fail to transmit a copy of it to my Government. In the mean time, I take

the liberty to trouble you with the following reply, which a severe indisposition has prevented me from preparing sooner.

The first paragraph seems to make it proper for me to begin by saying, that the topics introduced into my letter of the 10th of Dec. were intimately connected with its principal subject, and fairly to illustrate and explain it; and consequently that if they had not the good fortune to be acceptable to your Lordship, the fault was not mine.

It was scarcely possible to speak with more moderation than my paper exhibits, of that portion of a long list of violations of the rights of the United States which it necessarily reviews, and of the apparent reluctance of the British Government to forbear those invasions in future. I do not know how I could more carefully have abstained from whatever might tend to disturb the spirit which your Lordship ascribes to his Majesty's government, if, instead of being utterly barren and unproductive, it had occasionally been visible in some practical result, in some concession either to friendship or to justice. It would not have been very surprising, nor very culpable perhaps, if I had wholly forgotten to address myself to a spirit of conciliation, which had met the most equitable claims with steady and unceasing repulsion—which had yielded nothing that could be denied—and had answered complaints of injury by multiplying their causes.—With this forgetfulness, however, I am not chargeable; for, against all the discouragements suggested by the past, I have acted still upon a presumption that the disposition to conciliate, so often professed, would finally be proved by some better evidence than a perseverance in oppressive novelties, as obviously incompatible with such a disposition in those who enforce them, as in those whose patience they continue to exercise.

Upon the commencement of the 2d paragraph, I must observe, that the forebearance, which it announces, might have afforded some gratification, if it had been followed by such admissions as my government is entitled to expect, instead of a further manifestation of that disregard of its demands by which it has so long been wearied. It has never been my practice to seek discussions of which the tendency is merely to irritate; but I beg your Lordship to be assured that I feel no desire to avoid them, whatever may be their tendency, when the rights of my country require to be vindicated against pretensions that deny, and conduct that infringe them.

If I comprehend the other parts of your lordship's letter they declare in effect that the British government will repeal nothing but the orders in council, and that it cannot at present repeal even them, because, in the first place, the French government has required, in the letter of the duke of Cadore to General Armstrong of the 5th of August, not only that G. Britain shall revoke those orders, but that she shall renounce certain principles of blockade (supposed to be explained in the preamble to the Berlin decree) which France alleges to be new; and, in the second place, because the American government has (as you concluded) demanded the revocation of the British order of blockade of May 1806, as a practical instance of that same renunciation, or, in other words, has made itself a party, not openly indeed, but indirectly and covertly, to the entire requisition of France, as you understand that requisition.

It is certainly true that the American government has required, as indispensable in the view of its acts of intercourse and non-intercourse, the annulment of the British blockade of May 1806, and further that it has through me declared its confident expectation that other blockades of a similar character (including that of the Island of Zealand) will be discontinued. But by what process of reasoning your lordship has arrived at the conclusion, that the government of the U. States, intended by this requisition, to become the champion of the edict of Berlin, to fashion its principles by those of France, while it affected to adhere to its own, and to act upon some partnership in doctrines, which it would fain induce you to acknowledge but could not prevail upon itself to avow, I am not able to conjecture. The frank and honorable character of the American government justifies me in saying that, if it had meant to demand of Great Britain an abjuration of all such principles as the French government may think fit to disapprove,

it would not have put your Lordship to the trouble of discovering that meaning by the aid of combinations and inferences discountenanced by the language of its Minister, but would have told you so in explicit terms. What I have to request of your Lordship, therefore, is, that you will take our views and principles from our own mouths, and that neither the Berlin decree, nor any other act of any foreign state, may be made to speak for us what we have not spoken for ourselves.

The principles of blockade which the American government professes, and upon the foundation of which it has repeatedly protested against the order of May 1806, and the other kindred innovations of these extraordinary times, have already been so clearly explained to your Lordship, in my letter of the 21st of September, that it is hardly possible to read that letter and misunderstand them. Recommended by the plainest considerations of universal equity, you will find them supported with a strength of argument, and a weight of authority, of which they scarcely stand in need, in the papers, which will accompany this letter, or were transmitted in that of September. I will not recapitulate what I cannot improve; but I must avail myself of this opportunity to call your Lordship's attention a second time, in a particular manner, to one of the papers to which my letter of September refers. I allude to the copy of an official note, of the 15th of April 1804, from Mr. Merry to Mr. Madison, respecting a pretended blockade of Martinique and Guadeloupe. No comment can add to the value of that manly and perspicuous exposition of the law of blockade, as made by England herself, in maintenance of rules, which have been respected and upheld, in all seasons and on all occasions, by the government of the United States. I will leave it, therefore, to your Lordship's consideration, with only this remark, that, while that paper exists, it will be superfluous to seek in any French document for the opinions of the American government on the matter of it.

The steady fidelity of the government of the United States to its opinions on that interesting subject is known to every body. The same principles, which are found in the letter of Mr. Madison to Mr. Thornton of the 27th of October 1803, already before you, were asserted in 1799 by the American minister at this court, in his correspondence with Lord Grenville, respecting the blockade of some of the ports of Holland; were sanctioned, in a letter of the 20th of September 1800, from the Secretary of State of the U. States to Mr. King, of which an extract is enclosed; were insisted upon in repeated instructions to Mr. Monroe, and the special mission of 1806; have been maintained by the U. States against others, as well as against England, as will appear by the enclosed copy of instructions, dated the 21st of October 1801, from Mr. Secretary Madison to Mr. Charles Pinkney, then American minister at Madrid; and finally were adhered to by the United States when belligerent, in the case of the blockade of Tripoli.

A few words will give a summary of those principles; and when recalled to your remembrance, I am not without hopes that the strong grounds of law and right on which they stand will be as apparent to your Lordship as they are to me.

It is by no means clear that it may not fairly be contended, on principle and early usage, that a maritime blockade is incomplete with regard to states at peace, unless the place which it would affect is invested by land as well as by sea. The United States, however, have called for the recognition of no such rule. They appear to have contented themselves with urging in substance, that ports not actually blockaded by a present, adequate, stationary force, employed by the power which attacks them, shall not be considered as shut to neutral trade in articles not contraband of war; that, though it is usual for a belligerent to give notice to neutral nations when he intends to institute a blockade, it is possible that he may not act upon his intention at all, or that he may execute it insufficiently, or that he may discontinue his blockade, of which it is not customary to give any notice; that consequently, the presence of the blockading force is the natural criterion by which the neutral is enabled to ascertain the existence of the blockade at any given period, in like manner as the

actual investment of a besieged place is the evidence by which we decide whether the siege, which may be commenced, raised, recommenced and raised again, is continued or not; that of course a mere notification to a neutral minister shall not be relied upon, as affecting, with knowledge of the actual existence of a blockade, either his government or its citizens; that a vessel, cleared or bound to a blockaded port, shall not be considered as violating in any manner the blockade, unless on her approach towards such port she shall have been previously warned not to enter it; that this view of the law, in itself perfectly correct, is peculiarly important to nations situated at a great distance from the belligerent parties, and therefore incapable of obtaining other than tardy information of the actual state of their ports; that whole coasts and countries shall not be declared (for they can never be more than declared) to be in a state of blockade, and thus the right of blockade converted into the means of extinguishing the trade of neutral nations; and lastly that every blockade shall be impartial in its operation, or, in other words, shall not open and shut for the convenience of the party that institutes it, and at the same time repel the commerce of the rest of the world, so as to become the odious instrument of an unjust monopoly, instead of a measure of honorable war.

These principles are too moderate and just to furnish any motive to the British government for hesitating to revoke its orders in council and those analogous orders of blockade which the U. States expect to be recalled. It can hardly be doubted that Great Britain will ultimately accede to them in their fullest extent; but if that be a sanguine calculation (as I trust it is not) it is still incontrovertible, that a disinclination at this moment to acknowledge them, can suggest no rational inducement for declining to repeal, at once, what every principle disowns, and what must be repealed at last.

With regard to the rules of blockade which the French government expects you to abandon, I do not take upon me to decide whether they are such as your lordship supposes them to be or not.—Your view of them may be correct; but it may also be erroneous; and it is wholly immaterial to the case between the United States and Great Britain whether it be the one or the other.

As to such British Blockades as the United States desire you to relinquish, you will not, I am sure, alledge, that it is any reason for adhering to them, that France expects you to relinquish others. If our demands are suited to the measure of our own rights, and of your obligations as they respect those rights, you cannot think of founding a rejection of them upon any imputed exorbitance in theories of the French government, for which we are not responsible, and with which we have no concern. If when you have done justice to the U. States, your enemy should call upon you to go farther, what shall prevent you from refusing? Your free agency will in no respect have been impaired. Your case will be better, in truth and in the opinion of mankind, and you will be, therefore, stronger in maintaining it; provided that, in doing so, you resort only to legitimate means, and do not once more forget the rights of others while you seek to vindicate your own. Whether France will be satisfied with what you may do, is not to be known by anticipation, and ought not to be a subject of enquiry. So vague a speculation has nothing to do with your duties to nations at peace, and, if it had, would annihilate them. It cannot serve your interests; for it tends to lessen the number of your friends, without adding to your security against your enemies. You are required, therefore, to do right and to leave the consequence to the future, when by doing right you have every thing to gain and nothing to lose.

As to the Orders in Council, which professed to be a reluctant departure from all ordinary rules, and to be justified only as a system of retaliation for a pre-existing measure of France, their foundation (such as it was) is gone the moment that measure is no longer in operation. But the Berlin decree is repealed, and even the Milan decree, the successor of your orders in council, is repealed also. Why is it, then, that your orders have out-lived those edicts, and that they are still to oppress and harass before? Your Lordship answers this question explicitly enough