



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

REPORT ON NAVIGATION LAWS.

IN SENATE OF THE UNITED STATES,  
March 15, 1822.

Mr. King, of New-York, from the Committee on Foreign Relations, presented the following REPORT :

The Committee on Foreign Relations, to whom were referred the Memorial of R. Appleby and others, of Colleton District, South-Carolina, and the Resolutions of the Chamber of Commerce of the City of Baltimore, praying for the repeal of the laws closing the ports of the United States against British vessels employed in the trade between the United States and the British Colonies in the West Indies, Report—

That, referring to the period between the completion of the Revolution and the adoption of the Constitution, it cannot be doubted that the embarrassments of the agriculture, trade, and navigation of the several States, were truly ascribed to the want of power in Congress to make adequate laws for their encouragement and protection; and no motive in favor of the adoption of the Constitution, was more strongly or more generally felt than the opinion, that the vesting of power in Congress to regulate trade, would serve to promote the welfare and prosperity of the Union.

The new government, under the Constitution, very soon experienced the influence created by the extraordinary changes that were taking place in France, and which, in the sequel, engaged all Europe in arms.

War between the great maritime powers invariably produces temporary relaxations of their laws respecting the trade and navigation of foreign nations with their respective territories. The suspension of these laws, and especially of such of them as regulated the colonial trade, had the effect of giving to the agriculture, trade, and navigation of the United States, the advantages which would have been given to them by a system of free trade, that should have for its basis the equal and reciprocal benefits of all nations.

The condition of neutrality that was adopted by the United States during the wars of the French Revolution, secured to every commercial nation benefits which a peaceable and industrious people are able to afford during periods of great public calamity; and our example during these wars has served to prove, that justice is the most profitable, as well as the wisest policy of nations.

Since the establishment of the general peace, some of the maritime nations, notwithstanding the doubts that have been raised in regard to the truth of the former theories of trade, have returned to, and resumed, their ancient commercial policy; and, in consequence thereof, the United States have, in their own defence, been obliged to resort to the exercise of the powers to regulate trade vested in Congress, for the purpose of protecting and cherishing the industry and navigation of the States.

Great moderation has been observed by the United States on this subject, and persevering endeavors have been made to adjust, by treaty, their commercial intercourse with foreign nations, and especially with England.

So far as respects the English territories in Europe and in Asia, the intercourse is arranged by the treaty of 1815; but this treaty contains no provision concerning the navigation and trade between the United States and the English colonies, in the West-Indies and North-America.—The value of this branch of trade, and the importance of the navigation employed in the same, have been long understood by both parties, and the actual embarrassment thereof, which now exists, cannot be ascribed to the want of a disposition on the part of the United States to have placed the same on a fair and friendly footing; but it continues to be insisted on by England, that not only the colonial trade, but the trade between the U. States and these colonies, ought to be considered and regulated as a monopoly, that foreign nations are bound to respect, & with which they may not interfere.

The act, commonly called the navigation act of England, while it reserves the colonial navigation exclusively to the vessels of England and her colonies, opens the trade between England and foreign nations to the vessels of both, subject to equal and the same regulations.

The colonial, like the coasting trade, has been treated as a monopoly, so long as the same was confined to the navigation between territories of the same nation; but, whenever it may suit the convenience of a nation to open a trade between her colonies & a foreign nation, the claim to treat this trade as a monopoly is without just authority, being contrary to the rights of such foreign nation, which, within its own dominions, must possess authority to make such regulations as may be deemed expedient.

It is an unwarrantable extension of national monopolies, by *ex parte* laws, to attempt to include the navigation of a foreign nation within the rules by which the navigation between portions of the same nation is governed. If this may be done between the colonies and a foreign

nation, it may also be done in respect to the navigation between any other portion, or the whole of the territories of such nation and foreign nations.

England allows the importation of lumber and bread-stuffs from the U. States into the colony of Jamaica, but forbids the same, unless the importation be made in English vessels; she also allows the importation of cotton and tobacco from the United States into England, but with equal right she may forbid the same, unless the importations be made in English vessels. This has not been done in the latter case, and there would be but one sentiment in the United States, should it be attempted—yet, in the former case this is, and has been the law ever since the date of our independence, and it may, with equal right be applied to Liverpool as to Jamaica.

After long endurance and fruitless efforts to adjust this question by treaty, Congress, with great unanimity, have passed laws to countervail the restrictions imposed by England upon the intercourse between the United States and her colonies in the West-Indies.

England having forbidden the importation of supplies from the United States into her West India colonies in American vessels, the United States in their turn have forbidden the exportation of these supplies in British vessels: the two restrictions have put an end to the direct intercourse, and the trade is carried on indirectly; the supplies for those colonies being carried in American vessels from the United States to the Swedish and Danish Islands, and the produce of the English West Indies being brought in English vessels to the same islands, and there exchanged for the provisions and lumber of the United States. American supplies are also sent in American vessels to the free port of Bermuda, and these sold for cash; and flour in like manner is sent from the United States to the Island of Cuba, as well as to the port of Liverpool, and from these places, carried in English vessels to Jamaica and other English colonies in the West Indies. In this condition of our navigation and trade, our tonnage continues annually to increase, and the value of our exports exceeds that of our imports.

In countries of great extent, and whose productions are various, though the people are generally employed in similar occupations, new regulations may, for a time, affect some portions of the country more than others; but every portion soon accommodates itself to the new regulation, and the advantages and disadvantages are, in a short time, certain to be equalized by the entire freedom with which every branch of industry is prosecuted.

It was on account of this diversity of products, and of the different manner of doing business in the several states, that jealousies formerly existed between them, which defeated every attempt to establish any common regulation of trade under the confederation—the want of American tonnage sufficient to create the requisite competition in the exports of the country, added to the difficulties of this period.

But as the national tonnage is now fully sufficient for the national exports, and as Congress have offered to all nations a system of entire equality and freedom in the commercial intercourse between them and the United States, the time has come in which it has been thought to be due to the welfare and character of the United States to countervail the regulations which so long, and so much to our disadvantage, have been imposed by England on the trade and navigation between the United States and her West India colonies.

This national measure, so long called for to protect the ships and seamen of the United States, was calculated to awaken the remnant of local jealousy that may still exist among us, against the influence of which we may with confidence appeal to the character and necessity of the law.

By the exclusion of English vessels, American vessels are employed in their place, and whatever is lost to the former, is gained by the latter. By revoking the countervailing laws, we take away the profits now enjoyed by American vessels, and give them back again to the vessels of England, and, in doing so, grant a bounty to foreign ships at the expense of our own.

Navigation and maritime industry, for a peculiar reason, call for national protection: for the art of navigation is an expedient of war, as well as of commerce; and, in this respect, differs from every other branch of industry. Though it was once doubted, doubt no longer exists, that a navy is the best defence of the United States—and this maxim is not more true than that a naval power never has existed, and can never exist, without a commercial marine; hence, the policy of encouraging and protecting the ships and seamen of the United States.

In the commercial differences which arise between nations, the various branches of industry are differently affected, and calculations, founded upon the supposed interest of either party, being often fallacious, may prove to be uncertain guides in the policy of nations, while, by referring every question of disagreement to the honor of the nation, in the purity and preservation of which, every one is

alike concerned, a standard is provided that can never mislead.

In the least as well as the most difficult disputes, national honor is the safest counsellor—and it should not be forgotten that public injuries long endured invite further aggression, and, in the end, degrade and destroy the pride and safety of nations.

In respect to the commercial difference which has so long existed between the U. States and England, the claim of the latter exclusively to regulate the intercourse and navigation between the United States and her West India colonies, has affected the reputation and rights of the United States, and the public honor justifies the countervailing measures adopted on this subject; to recede from the same would be equivalent to their final relinquishment, and would not fail to encourage the belief that a wrong so long endured would no longer be opposed, and that further aggression might be made without resistance.

It must be always remembered, that the countervailing measures which have been adopted by Congress, are entirely defensive; and, as we desire to concur in the establishment of a free trade with every nation, we are ready to abandon the restrictions on the English navigation, as soon as England manifests a disposition to give up the restrictions which she was the first to impose on our navigation—and does public policy require, or will the national honor permit, that we should do so sooner? With these views, the Committee submit the following resolution:

Resolved, That the Committee on Foreign Relations be discharged from the further consideration of the petitions of R. Appleby and others, of Colleton District, South-Carolina, and of the resolutions of the Chamber of Commerce of Baltimore, praying for the repeal of the laws imposing restrictions on English vessels employed in the trade between the United States and the English colonies in the West Indies.

REPORT

On the Recognition of the late Spanish Provinces in America.

HOUSE OF REPRESENTATIVES, MARCH 19, 1822.

The Committee on Foreign Affairs, to which were referred the message of the President, concerning the recognition of the late Spanish provinces in America, and the documents therewith communicated, having examined the same with the most profound attention, unanimously report:

That the Provinces of Buenos Ayres, after having, from the year 1810, proceeded in their revolutionary movements without any obstacle from the government of Spain, formally declared their independence of that government, in 1816. After various intestine commotions, and external collisions, those provinces now enjoy domestic tranquillity, and good understanding with all their neighbors; and actually exercise, without opposition from within, or the fear of annoyance from without, all the attributes of sovereignty.

The Provinces of Venezuela and New Grenada, after having, separately, declared their independence, sustained, for a period of more than ten years, a desolating war against the armies of Spain, and having severally, attained, by their triumph over those armies, the object for which they contended, united themselves, on the 19th of December, 1819, in one nation, under the title of “the Republic of Colombia.”

The Republic of Colombia has now a well organized government, instituted by the free will of its citizens, and exercises all the functions of sovereignty, fearless alike of internal and foreign enemies. The small remnant of the numerous armies commissioned to preserve the supremacy of the parent state, is now blockaded in two fortresses, where it is innocuous, and where, deprived as it is, of hope, of succour, it must soon surrender at discretion; when this event shall have occurred, there will not remain a vestige of foreign power in all that immense Republic, containing between three and four millions of inhabitants.

The Province of Chili, since it declared its independence, in the year 1818, has been in the constant and unmolested enjoyment of the sovereignty which it then assumed.

The Province of Peru, situated like Chili, beyond the Andes, and bordering on the Pacific ocean, was, for a long time, deterred from making any effectual effort for independence, by the presence of an imposing military force, which Spain had kept up in that country. It was not, therefore, until the 12th of June, of the last year, that its capital, the city of Lima, capitulated to an army, chiefly composed of troops from Buenos Ayres and Chili, under the command of Gen. San Martin. The greatest part of the royal troops which escaped, on that occasion, retreated to the mountains, but soon left them to return to the coast, there to join the royal garrison in the fortress of Callao. The surrender of that fortress, soon after, to the Americans, may be regarded as the termination of the war in that quarter.

When the people of Peru found themselves, by this event, free to express their will, they most unequivocally expressed in favor of independence, and with an unanimity and enthusiasm which have no where been excelled.

The revolution in Mexico has been somewhat different in its character and progress, from the revolutions in the other Spanish American provinces, and its result, in respect to the organization of its internal government, has, also, not been precisely the same. Independence, however, has been as emphatically declared & as practically established, since the 24th of August last, by the “Mexi-

can empire,” as ever it has been by the republics of the south; and her geographical situation; her population and her resources, eminently qualify her to maintain the independence which she has thus declared, and now actually enjoys.

Such are the facts which have occupied the attention of your committee, and which, in their opinion, irresistibly prove, that the nations of Mexico, Colombia, Buenos Ayres, Peru, and Chili, in Spanish America, are in fact independent.

It now remains for your committee to examine the right and the expediency, on the part of the United States, of recognizing the independence which those nations have, thus effectually, achieved.

In this examination, it cannot be necessary to inquire into the right of the people of Spanish America, “to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth that separate and equal station to which the laws of nature and of nature’s God entitle them.” The right to change the political institutions of the state has, indeed, been exercised equally by Spain and by her colonies; and for us to deny to the people of Spanish America the right to independence, on the principles which alone sanction it here, would be virtually to renounce our own.

The political right of this nation to acknowledge their independence, without offending others, does not depend on its justice, but on its actual establishment. To justify such a recognition, by us, it is necessary only to shew, as is already sufficiently shown, that the people of Spanish America are, within their respective limits, exclusively sovereign; and thus, in fact, independent. With them, as with every other government possessing and exercising the power of making war, the United States, in common with all nations, have the right of concerting the terms of mutual peace and intercourse.

Who is the rightful sovereign of a country, is not an inquiry permitted to foreign nations, to whom it is competent only to treat with “the powers that be.”

There is no difference in opinion, on this point, among the writers on public law; and no diversity, with respect to it, in the practice of civilized nations. It is not necessary, here, to cite authority for a doctrine familiar to all who have paid the slightest attention to the subject; nor to go back, for its practical illustration, to the civil wars between the houses of York and Lancaster. Long since, the chiefs of those conflicting houses, alternately triumphed and ruled, and were alternately obeyed at home & recognised abroad, according as they, successively, exercised the power, without demonstrating the right—monarchies have become commonwealths or republics, and powerful usurpers have been recognized by foreign nations, in preference to legitimate and powerless pretenders. Modern history is replete with instances in point. Have we not, indeed, within the brief period of our own remembrance, beheld governments vary their forms, and change their rulers, according to the prevailing power or passion of the moment, and doing so in virtue of the principle now in question, without materially and lastingly affecting their relations with other governments? Have we not seen the emperors and kings of yesterday, receive, on the thrones of exiled sovereigns, who claimed the right to reign there, the friendly embassies of other powers, with whom those exiled sovereigns had sought an asylum; and have we not seen to-day those emperors and kings, thus courted and recognized yesterday, rest of their sceptres, and, from a mere change of circumstances, not of right, treated, as usurpers by their successors, who, in their turn, have been acknowledged and caressed by the same foreign powers?

The peace of the world, and the independence of every member of the great political family, require that each should be the exclusive judge of its own internal proceedings, & that the fact alone should be regarded by foreign nations. “Even when civil war breaks the bonds of society and of government, or, at least, suspends their force and effect, it gives birth in the nation to two independent parties, who regard each other as enemies, and acknowledge no common judge.” It is of necessity, therefore, that these two parties should be considered, by foreign states, as two distinct and independent nations. To consider or treat them otherwise, would be to interfere in their domestic concerns, to deny them the right to manage their own affairs in their own way, and to violate the essential attributes of their respective sovereignty. For a nation to be entitled, in respect to foreign states, to the enjoyment of these attributes, “and to figure directly in the great political society, it is sufficient that it is really sovereign and independent: that is, that it governs itself by its own authority and laws.” The people of Spanish America do, notoriously, so govern themselves, and the right of the U. States to recognize the governments, which they have instituted, is incontestable. A doubt of the expediency of such a recognition can be suggested only, by the apprehension that it may injuriously affect our peaceful and friendly relations with the nations of the other hemisphere.

Can such an apprehension be well founded?

Have not all those nations practically sanctioned, within the last thirty years, the very principle on which we now propose to act; or have they ever complained of one another, or of us, for acting on that principle?

No nation of Europe, excepting Spain herself, has, hitherto, opposed force to the independence of Spanish America. Some of those nations have not only constantly maintained commercial and friendly intercourse with them, in every stage of the revolution, but indirectly and efficiently, though not avowedly, aided them in the prosecution of

their great object. To these the acknowledgment, by the United States, of the attainment of that object, must be satisfactory.

To the other nations of Europe, who have regarded the events occurring in Spanish America, not only without interference, but with apparent indifference, such acknowledgment ought not to be offensive.

The nations who have thus respectively favored, or never opposed, the Spanish American people, during their active struggle for independence, cannot, it is believed, regard with disaffection, the formal recognition of that independence by a nation, which, while that struggle lasted, has religiously observed, towards both the conflicting parties, all the duties of neutrality. Your committee are therefore of opinion, that we have a right, on this occasion, confidently to expect, from what these nations have done or forbore to do, during the various fortunes of the civil war which has terminated, that they will frankly approve the course of policy which the United States may now think proper to adopt in relation to the successful party in that war. It surely cannot be reasonably apprehended, that nations who have thus been the tranquil spectators, the apparent well-wishers, if not the efficient supporters, of this party; and who have not made the faintest attempt to arrest its progress, or to prevent its success, should be displeased with a third power, for merely recognizing the governments which, owing to that success, have thus been virtually permitted, or impliedly approved, in acquiring the undisputed and exclusive control of the countries in which they are established. It is, therefore, on the consistency, as well as on the justice, of these nations of Europe, that we may confidently rely, that the simple recognition, on the part of the United States, of the necessary effect of what has already been done, will not be considered as a just cause of complaint against them; while the interested and immediate agents, who have been directly and actively engaged in producing that effect, have neither been opposed nor censured.

Your committee, therefore, instead of seriously apprehending that the recognition, by the United States, of the independence of Spanish America, will be unacceptable to these nations, are not without hope, that they may practically approve it, by severally adopting a similar measure. It is not, indeed, unreasonable to suppose, that these governments have, like this, waited only for the evidence of facts which might not only suffice to justify them, under the laws and usages of nations, but to satisfy Spain herself, that nothing has been prematurely done, or which could justly offend her feelings, or be considered as inconsistent with her rights. As their motives for not having hitherto recognized the independence of Spanish America, may thus be supposed to have been analogous to our own, it is permitted to presume that the facts and reasons which have prevailed on us no longer to hesitate, will, confirmed as they are by our example, have a like influence on them.

No nation can entertain a more sincere deference for the feelings of Spain, or take a more lively interest in her welfare, than the United States. It is to this deference, too evident to be doubted or misunderstood, that ought to be ascribed the hesitation of this government, until now, to yield to the claims of Spanish America, although these claims were in perfect accordance with our own principles, feelings, and interests. Having thus forbore to act, even at the hazard of having those principles and feelings misunderstood on this side of the Atlantic, we have, as your committee believe, given an satisfactory proof of our disinterestedness and moderation; and of our scrupulous respect to the principle which leaves the political institutions of every foreign state to be directed by its own view of its own rights and interests.

Your Committee have been particularly anxious to show, in a manner satisfactory to Spain herself, that the measure which this government now proposes to adopt, has been considered with the most respectful attention, both in relation to her rights and to her feelings.

It is not on the laws and usages of nations, or on the practice of Spain herself on like occasions, that your committee have relied for our justification towards her.

The fact that, for the last three years, she has not sent a single company of troops against her transatlantic colonies, has not been used as evidence of their actual independence, or of her want of power to oppose it. This fact, explained as it is, by the public acts of Spain herself, is regarded by your committee as evidence only of her policy.

The last troops collected at Cadix, in 1819, which were destined to suppress the revolutionary movements in Spanish America, not only rejected that service, but joined in the revolution, which has since proved successful in Spain itself. The declaration of the leaders in that revolution was, that “Spanish America had a right to be free, and that Spain should be free.” Although the constitution, which was re-established by that revolution, guaranteed the integrity of the Spanish dominions, yet the principles on which that constitution was founded seemed to discountenance the employment of force for the accomplishment of that object, in contempt of the equal rights and declared will of the American portion of the Spanish people. The conduct of the government, organized under that constitution, has uniformly been, in this respect, in conformity to those principles.—Since its existence, there has not been even a proposal by that government to employ force for the subjugation of the American provinces; but merely recommendations of conciliatory measures for their pacification.

The answer of the Cortes, on the 10th of July, 1820, to the address of the King, furnishes conclusive proof of this policy. “The intimate union,” says this answer, “of the Cortes with your Majesty; the re-