



Monday, Nov. 14.

The following gentlemen are appointed on the different committees on the subjects comprised in the President's message:

On the subject of our relations with foreign powers, Messrs. G. W. Campbell, Nicholas, Numford, Fisk, Champion, J. Montgomery, Bacon, Taylor, and Porter.

On the subject of fortifications, Messrs. Blount, Burwell, Cook, Goldsborough, Riker, J. K. Smith, and Troup.

On the subject of our military and naval establishments, Messrs. Nelson, Dawson, Tallmadge, Howard, Storey, Butler, and Shaw.

On the subject of revising and improving the militia system, Messrs. Macon, Clay, Finley, Durell, Cussis, Sturges, and Johnson.

On the subject of the disposition of the surplusage of the revenue, to internal improvements, &c. Messrs. Randolph, Quincy, Brown, Kirkpatrick, Lambert, Sawyer, and Desha.

EXECUTION AND EVASION OF THE EMBARGO LAWS.

Mr. Elliot's resolution calling for information on these subjects, was taken up and agreed to, without opposition.

SEAMEN.

On motion of Mr. Newton, the House came to the following resolution:

Resolved, That the committee on so much of the message of the President of the U. States as relates to the military and naval establishments, be instructed to enquire into the expediency of authorising the President of the U. States to employ such additional number of seamen, not exceeding... as in his opinion the public service may require, and that the committee have leave to report by bill or otherwise.

Mr. Burwell, from the committee appointed to wait on the President with the resolution requesting him to lay before the House copies of certain orders and decrees, &c. reported: that they had performed the duty assigned them, and had received for answer that the President would cause the papers called for to be laid before the House as soon as possible.

On motion of Mr. Bacon, a resolution was adopted, instructing the committee of Post-Offices and Post-Roads to enquire into the propriety of providing for the transportation by mail, free of expence, of the documents accompanying the message of the President of the United States.

EMBARGO.

Mr. Mumford offered the following Resolution:

Resolved, That the act laying an embargo on all the ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, be repealed, so far as to allow the ships and vessels of the U. States to depart with their cargoes for those countries not subject to the decrees of France, or those subject to the British orders in council.

Mr. Mumford observed, that his object was, simply, to enquire into the propriety of opening our trade with those countries not subject to the orders and decrees of England and France, viz. Spain and her colonies in the East and West Indies, including Buenos Ayres; Portugal and her colonies in the East and West Indies, including the Brazils; China and the native ports in India; Russia; Denmark; Sweden and her island at St. Bartholomew's in the West Indies; the coast of Barbary; and the island of Havti.

The resolution was referred to the committee of the whole, to whom several resolutions on the same subject have been referred, without opposition.

On motion of Mr. Blackledge, the House came to the following resolution:

Resolved, That the committee of Commerce and Manufactures be instructed to enquire into the expediency of authorising the President of the U. States to employ an additional number of revenue cutters; and that they report by bill or otherwise.

Mr. Chittenden's Resolution.

This resolution, together with several others, referred to a committee of the whole, having been made the order of the day, the Speaker stated the circumstance.

Mr. Chittenden said, in consequence of a wish expressed by several gentlemen, that the subject should not be discussed to-day, he would waive the calling it up.

Several petitions and resolutions on the subject of post-roads, and several petitions of a private nature, were presented and referred.

Mr. Smilie observed, that since it was determined that the House were not prepared to go into a discussion to-day, as many committees had been appointed, he moved an adjournment, to give them time to meet. Carried.

Tuesday, November 15.

Mr. Sawyer begged leave to add one more resolution to those already before the House on the subject of the embargo.

Resolved, That it is expedient for the United States to open a communication and trade with the West-Indies generally.

The resolution was referred to the committee of the whole to whom several resolutions on the same subject have been referred.

Wednesday, Nov. 16.

Mr. McCreery presented the petition of thirty-six American citizens confined at Carthage, in South-America, under sentence of slavery. The petition is dated from the vaults of St. Clara, Carthage, Sept. 16, 1808. The petitioners state that they were brought from New York in a fraudulent manner, in the armed ship Leander, Thomas Lewis commander, on the 2d of February, 1806, together with many other citizens; they detail the sufferings they have undergone; and state that they feel confident, from the justice of their claim to the interference and protection of the constituted authorities of their country, that measures will be adopted to restore them to liberty.

This petition was referred to a committee consisting of five members.

Mr. Chittenden called for the order of the day on his resolution on the subject of the embargo.

Mr. Smilie thought, from the commencement of this business, they had taken an irregular course. In his opinion all the resolutions on this subject should have been referred to the committee on that part of the message of the President of the U. S. relating to foreign relations. And to get at this subject he moved to discharge the committee of the whole from the consideration of those resolutions.

The Speaker informed Mr. Smilie that the motion could not be received while another was pending.

On the question to take up the order of the day it was negatived—Ayes 31.

Mr. Cook said he could not discern any disposition in the House to submit to the orders and decrees of Britain and France, and as the resolutions which had been offered did not precisely meet his ideas, he had begged leave to submit another:

Resolved, That the act laying an embargo on all ships and vessels in the ports and harbors of the U. S. and the several acts supplementary thereto, be repealed, so far as to permit the vessels of the U. S. to depart with their cargoes for those countries not subject to the decrees of France, nor the orders of the British council; and

That the citizens of the U. S. be authorized by law to arm and equip their merchant vessels for the purpose of defending them against French and British cruisers, who may molest or attack them when bound to any port or place not actually invested or blockaded.

On the suggestion of Mr. Elliot, the Speaker observed that the first clause of the resolution had been moved by Mr. Mumford, and was already before the House.

The second clause was then referred to the same committee to whom resolutions on the same subject have been referred.

Thursday, Nov. 17.

Mr. Livermore said he held in his hand several petitions from inhabitants

of the State of Massachusetts, signed by between 4 and 5000 persons, praying for a repeal of the embargo laws.

One of the petitions (from Newburyport) was read.

[In this petition the following sentence was twice read, by desire of one of the members:

"Your memorialists would further represent to your honorable body that they have witnessed with great surprise and alarm, a systematic attempt among the enemies of the people to excite a belief that our nation has it in its power only a choice of evils: that an embargo, or war with Great Britain is our only alternative; an opinion which appears to your memorialists wholly devoid of foundation. Whatever injustice the U. S. may have sustained from that power, we cannot perceive that a war with her would be either necessary or just, whilst she evinces on her part a disposition for an amicable settlement of all subjects of controversy; and especially, when we view her as almost alone maintaining a contest, on the successful issue of which depend the rights and liberties of the civilised world."

These petitions were all referred, without opposition, to the committee to whom several resolutions on the same subject have been referred.

Foreign Relations.

Mr. Macon said steadily had many resolutions been submitted to the consideration of the House on the subject of our foreign relations, and the embargo; some for a total and some for a partial repeal of it. As none of the motions had met his entire approbation, and as he considered this as one of the most important questions that could come before the House, he wished to take a course different from that which had been given to the others on the same subject.

I have been authorized (said Mr. M.) to see so many resolutions on the subject of the embargo, and none contemplating its entire continuance. Is the American nation ready to bow the neck? Are we ready to submit to be taxed by Great Britain and France as if we were their colonies? Where is that spirit which enforced a simple resolution of the old Congress, not then binding upon the people, as a law from heaven? Is it extinct? Is it lost to this nation? Has the love of gain superseded every other motive in the breasts of Americans? Shall the majority govern, or shall a few wicked and abandoned men drive this nation from the ground it has taken? Is it come to this, that a law constitutionally enacted, even after a formal decision in favor of its constitutionality, cannot be enforced? Shall the nation give way to an opposition of a few, and those the most profligate part of the community? I think the stand we took last year was a proper one; and I am for taking every measure for enabling the nation to maintain it. Just as our measure is beginning to operate, just as provisions are becoming scarce in the West Indies and elsewhere, notwithstanding the evasions of our law, we are called upon to repeal it. I should not have made this motion at this time, had it not been for the petition just presented.

When I stand here, sir, charged by a part of the community with being one of "the enemies of the people" notwithstanding I am willing to commit the petition, treating it with that respect which I conceive to be due from us to the prayer of any portion of the people; I with my sentiments on this subject to be seen.

A proclamation has been issued by one of the belligerents since the passage of our embargo law, sir. Look at it. What says it? Clearance or no clearance, we will receive any neutral vessel into our ports; and, in speaking of neutrals, recollect that there is no nation in the civilised world that has a claim to the title, except ourselves. This proclamation then tells our citizens "Evade the laws of your country, and we will receive and protect you." This is the plain English of it.

If the mad powers of Europe had entered into compact to injure us as much as they could, they could not have taken a more direct course to it. I consider them both alike, and the measures I would take would place them both on the same footing. I have made my resolutions as general as possible, to give all latitude to the committee.

Mr. M. then read his resolutions as follow:

Resolved, That the committee appointed on that part of the President's message which relates to our foreign relations, be instructed to enquire into the expediency of excluding by law from the ports, harbors, and waters of the U. S. all armed ships and vessels belonging to any of the belligerent powers, having in force orders or decrees violating the lawful commerce of the U. S. as a nation.

Resolved, That the same committee be instructed to enquire into the expediency of prohibiting by law the admission into the ports, harbors and waters of the U. S. any ship or vessel belonging to or coming from any place in the possession of any of the above mentioned powers and also the importation of any goods, wares and merchandise of the growth, produce and manufacture of the dominions of any of the said powers.

Resolved, That the same committee be instructed to enquire into the expediency of amending the act laying an embargo and the several acts supplemental and additional thereto.

On the subject of the first of these resolutions (said Mr. M.) it might be proper to interdict the entrance of all armed vessels, although I have confined the interdiction to the belligerents. A certain time might be fixed at which the second should go into operation.

I have thought proper, sir, to bring forward all these resolutions together, to shew my own opinion on what ought to be done. It is time for those who think the embargo a lawful and proper measure to come forward and declare it. No other person having as yet thought proper to do it, I have now done it. I believe the embargo was right; that it was right to pass laws to enforce it; and believing this, I feel no hesitation in avowing it. Time has been when the impressment of our seamen was cried out against by a large majority of Congress. Now the cry is that we will not let them go and be taken. Neither of the two great powers of Europe have shewn the least disposition to relax their measures; neither I hope shall we. I believe we have but three alternatives—war, embargo, or submission. The last I discard;—his nation never will submit; nor are there many people who would. That out of the question, then, the only question is, whether in the present state of the world, the embargo or war is the best for us. Arm your merchantmen, as has been proposed, send them out, and you have war directly. If we are to have war, I should rather have it openly, and let the nation know that we mean it. I am for the embargo yet. I am told flour from 30 to 50 dollars a barrel in the West Indies, I am also told that wheat is 14 shillings sterling a bushel in England. This must have an effect, trace hereto, through Spain and Portugal, France, if she carries her armies to that country, cannot support them. Nor can Spain support her own armies, and at the same time those that G. Britain sends there; for where war is waged, almost all agriculture is destroyed; and it only requires firmness in us to force them both by this measure to acknowledge our rights.—If I am mistaken in my opinion, I with that measure to be adopted which may best maintain our rights and independence.

The first and second resolutions offered by Mr. Macon were agreed to without a division. The third was ordered to lie on the table, Ays 18.

Mr. Chittenden's Resolution.

Mr. Chittenden called for the order of the day on the resolution submitted by him for repealing the embargo.

Mr. Quincy called for the Yeas and Nays on the motion to go into committee of the whole on the subject.

The question was then taken, and negatived, Yeas 56—Nays 58.

So it was decided that the House will not on this day take up the subject.

SENATE OF THE U. STATES.

Monday, Nov. 14.

The Senate took into consideration the motions, severally made by Mr. White, Mr. Lloyd, and Mr. Reed, as heretofore stated, and agreed to the same. It will be recollected that the motion of Mr. White calls for the

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DOCUMENTS

Accompanying the President's Message of the 8th of Nov. 1808.

(Continued.)

From the Secretary of State to Mr. Erskine. Department of State, March 25, 1808.

SIR—HAVING laid before the President your letter of the 23d of February, explaining the character of certain British orders of council issued in November last, I proceed to communicate the observations and representations which will manifest to your government the sentiment of the President on so deep a violation of the commerce and rights of the U. States.

These orders interdict to neutral nations or rather to the United States now the only commercial nation in a state of neutrality, all commerce with the enemies of G. Britain, now nearly the whole commercial world, with certain exceptions only, and under certain regulations, but too evidently fashioned to the commercial, the manufacturing and the fiscal policy of Great Britain; and on that account, the more derogatory from the honor and independence of neutral nations.

The orders are the more calculated to excite surprise in the U. States as they have disregarded the remonstrances conveyed in my letter of the 20th and 20th March, 1807, against another order of council issued on a similar plea, in the month of January, 1807. To those just remonstrances, no answer was indeed ever given; whilst the order has been continued in its pernicious operation against the lawful commerce of the U. States, and we now find added to it others, inflicting still more ruinous depredations, without even the addition of any new pretext; and when moreover it is notorious, that the order of January was of a nature greatly to overbalance in its effects any injuries to Great Britain that could be apprehended from the illegal operation of the French decree on which the orders were retaliated, had that decree in its illegal operation been actually applied to the U. States, and been acquiesced in by them.

The last orders, like that of January, proceed on the most substantial foundation. They assume for fact an acquiescence of the United States in an unlawful application to them of the French decree; and they assume for a principle that the right of retaliation accruing to one belligerent against a neutral, through whom an injury is done by another belligerent, is not to have for its measure that of the injury received, but may be exercised in any extent, and under any modifications, which may suit the pleasure or the policy of the complaining party.

The fact, sir, is unequivocally disowned. It is not true that the United States have acquiesced in violations of their neutral rights injurious to G. Britain, or any other belligerent nation. So far were they, in particular, from acquiescing in the French decree of November 1806, that the moment it was known to their minister at Paris, he called for explanations of its meaning to the U. States, which were favorable, and uncontradicted by the operation of the decree; that he steadily watched over the proceedings under it, with a readiness to interpose against any unlawful extension of them to the commerce of the U. States; that no time was lost, after the decree came to the knowledge of the government here, in giving him proper instructions on the subject; that he was equally prompt, on receiving the decision of the court in the case of the *Horizon*, in presenting to the French government a remonstrance in terms which can never be censured for a defect of energy; and that by the first opportunity after that decision reached the president the particular instructions required by it were forwarded to that minister. Nor is it

times, in peace as well as in war, towards her friends as well as her enemies. Her statute book presents a thousand illustrations.

It is, only, therefore, under the other aspect of the decree, that it can have violated neutral rights; and this would have resulted from its execution on the high seas, whether on the pretext of a nominal blockade, or with a view to enforce a domestic regulation against foreign vessels, not within the domestic precincts, but under the authority and protection of the law of nations.

Had then the French decree been executed on the high seas against the commerce of the United States with Great Britain, and have the United States acquiesced in the unlawful and injurious proceeding?

I flate, sir, on undeniable authority that the first instance in which that decree was put in force against the neutral rights of the United States, was that of the *Horizon*, an American ship bound from Great Britain to Lima, wrecked within the territorial jurisdiction of France but condemned under an exposition of the decree extending to the high seas its operation against neutrals. This judicial decision took place as late as the 16th day of October, 1807, and was not officially known to the minister plenipotentiary of the United States at Paris, till some time in November. At the date therefore of the first order of Great Britain, no injury whatever had been done to her, through an aggression on the commerce of the United States. No presumption even had been sufficiently authorized that the express stipulation in the treaty of France with the United States would not exempt their commerce at least from an edict incompatible with them. At the date even of the latter orders, of Nov. 11, it appears that the only aggression which had then occurred was pretty certainly unknown to the British government, and could therefore have had no share in producing this illegal retaliation.

To this fact, that the ship *Horizon* was the first that occurred of an execution of the French decree on the high seas, I am able to add, that as late as the 30th of November, no other case had been brought into the French court of prizes. From accounts which have lately appeared, it is more than probable that unlawful captures by French cruisers have since taken place, but it remains to be known whether they are to be referred to the concurrence of the French government in the judgement pronounced in the case of the *Horizon*, or not rather to a French decree of the 17th December last professing to be a retaliation of the British orders of November 11.

I flate with equal confidence, that at no time have the U. States acquiesced in violations of their neutral rights injurious to G. Britain, or any other belligerent nation. So far were they, in particular, from acquiescing in the French decree of November 1806, that the moment it was known to their minister at Paris, he called for explanations of its meaning to the U. States, which were favorable, and uncontradicted by the operation of the decree; that he steadily watched over the proceedings under it, with a readiness to interpose against any unlawful extension of them to the commerce of the U. States; that no time was lost, after the decree came to the knowledge of the government here, in giving him proper instructions on the subject; that he was equally prompt, on receiving the decision of the court in the case of the *Horizon*, in presenting to the French government a remonstrance in terms which can never be censured for a defect of energy; and that by the first opportunity after that decision reached the president the particular instructions required by it were forwarded to that minister. Nor is it

to be forgotten that previous to the British orders of November, it had been explicitly communicated to the British government by the American minister at London, that explanations uncontradicted by any overt act had been given to our minister at Paris, which justifies a reliance that the French decree would not be put in force against the U. States, and that the communication was repeated to the British government immediately on the publication of those orders.

What more could have been required on the part of the U. States to obviate retaliations of any sort on the part of G. Britain? Retaliations are measures of rigor in all cases. Where they are to operate through a third and involuntary party, they will never be hastily resorted to by a magnanimous or a just power; which will always allow to the third party its right to discuss the merits of the case, and will never permit itself to enforce its measures, without affording a reasonable time for the use of reasonable means for substituting another remedy. What would be the situation of neutral powers, if the first blow levelled through them by one belligerent against another, was to leave them no choice but between the retaliating vengeance of the latter and an infant declaration of war against the former? Reason revolts against this as the sole alternative. The U. States could no more be bound to evade the British orders by an immediate war with France, than they were bound to atone for the harboring of the French ship of war on the shore of North Carolina, by an immediate resort to arms against G. Britain.

With respect to the principle assumed by the British orders, it is perfectly clear that it could not justify them in the extent given to their operation; if the facts, erroneously assumed could have been fully sustained. Retaliation is a specific or equivalent return of injury for injury received; and where it is to operate through the interdict of a third party having no voluntary participation in the injury received, the return ought as already observed, to be inflicted with the most forbearing hand.

This is the language of common sense and the clearest equity. As the right to retaliate results merely from the wrong suffered, it cannot in the nature of things extend beyond the extent of the suffering. There may often be a difficulty in applying this rule with exactness, and a reasonable latitude may be allowable on that consideration. But a manifest and extravagant departure from the rule can find no apology.

What then is the extent of the injury experienced by Great Britain from the measure of her enemies as far as the operation of those measures through the U. S. can render them in any sense responsible?

A mere declaration by a belligerent, without the intention or means to carry it into effect, against the rights and obligations of a neutral nation, and thence against the interests of another belligerent, could afford no pretext to the latter to retaliate at the expence of the neutral. The declaration might give just offence to the neutral, but it would belong to him alone to decide on the course prescribed by the respect he owed to himself. No real damage having accrued to the belligerent, no indemnity could accrue.

For the same reason, a declaration of a belligerent which he is known to be either not in a situation, or not to intend, to carry but partially into execution against a neutral, to the injury of another belligerent, could never give more than a right to a commensurate redress against the neutral. All remaining unexecuted and evidently not to be executed, is merely offensive; working no injury to any, unless it be in the respect to the neutral, to whom

alone it belongs to resent or disregard it.

Bring the case before us to this plain and equitable test. The French decree of November, 1806, undertook to declare the British isles in a state of blockade, to be enforced if you please against the neutral commerce of the United States on the high seas, according to the faculty possessed for the purpose. As far as it was actually enforced, or an effect resulted from an apprehension that it could and would be enforced, it was an injury to Great Britain, for which let it be supposed the United States were answerable.—On the other hand, as far as it was not enforced, and evidently either would not or could not be enforced, no injury was experienced by Great Britain, and no remedy could lie against the United States. Now, sir, it never was pretended that at the date of the first British order issued in January, 1807, any injury had accrued to, or was apprehended by Great Britain from an execution of the French decree against the commerce of the United States, on the theatre of their neutral rights. So far from it, that the order stands self-condemned as a measure of retaliation, by expressly flating that the fleets of France and her allies, instead of being able to enforce the blockade of the British isles, were themselves confined to their own ports by the entire superiority of the British navy; converting thus, by the frangest of reasonings, the security of Great Britain against injury from the French decree, into a title to commit injury on a neutral party. In the November orders also, whilst it is admitted that the French decree could not be but imperfectly executed for want of means, it is asserted that the intention of the French decree, and not the injury accruing from its operation through the commerce of the United States, is the scale by which the retaliating injury against them is to be measured.

Such are the pretexts and such the principles on which one great branch of the lawful commerce of this country became a victim to the first British order, and on which the last orders are now sweeping from the ocean all its most valuable remains.

Against such an unprecedented system of warfare on neutral rights and national independence, the common feelings of mankind must forever protest.

I touch, sir, with reluctance the question on which of the belligerent sides the invasion of neutral rights had its origin. As the U. S. do not acquiesce in these invasions by either, there could be no plea for involving them into the controversy. But as the British orders have made the decree of France, declaring, contrary to the law of nations, the British islands in a state of blockade, the immediate foundation of their destructive warfare on our commerce, it belongs to the subject to remind your government of the illegal interruptions and spoliations suffered, previous to that decree, by the neutral commerce of the United States under the proceedings of British cruisers and courts, and for the most part in consequence of express orders of the government itself. Omitting proofs of inferior note, I refer to the extensive aggressions on the trade of the United States founded on the plea of blockades, never legally established according to recognized definitions; to the still more extensive violations of our commerce with ports of her enemies, not pretended to be in a state of blockade; and to the British order of council issued near the commencement of the existing war. This order, besides its general interposition against the established law of nations, is distinguished by a special ingredient violating that law as recognised by the course

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