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REPORT.

The committee to whom was referred so much of the message of the President of the United States of the 8th ultimo. as respects our relations with foreign powers

REPORT, IN PART—

After a period of twenty-five years of peace, hardly interrupted by transient hostilities, and of prosperity unparalleled in the history of nations; the United States are, for the first time since the treaty which terminated the revolutionary war, placed in a situation equally difficult, critical and dangerous.

Those principles recognized by the civilized world under the name of law of nations, which heretofore controlled belligerent powers, regulated the duties of neutrals and protected their rights, are now avowedly disregarded or forgotten by Great Britain and France.—Each of those two nations captures and condemns all American vessels trading with her enemies or her enemy's allies; and every European power having become a party in the contest the whole of our commerce with Europe and European colonies, becomes liable to capture by either one or the other. If there be any nominal exception, it is made on a condition of tribute, which only, adds insult to the injury.

The only plea urged in justification of those hostilities, is that of retaliation, grounded on a presumed acquiescence of the United States in previous aggressions by the other party. Waving a discussion of the correctness of the principle of retaliation, a principle doubtful in itself, and altogether inadmissible when carried, the wrong operating on the neutral rather than on the enemy; it is altogether untrue that the United States have ever voluntarily acquiesced in the unlawful aggressions of either nation; omitted or delayed any measures calculated to obtain redress, or in any respect deviated from that impartiality to which they were bound by their neutrality. France has alluded to the violations of the national flag, and of the sovereignty of the United States, in the instances of Pierce's murder, of the outrage on the Chesapeake, and of the destruction of the Impetueux. The measures taken to obtain redress in those cases are of public notoriety, and it may be added, that with the exception of the last, those aggressions on the sovereignty of the United States did not affect their neutrality, and gave no right to France either of complaint or interference. Setting aside irregularities of less importance and equally chargeable to both nations, such as the British order of June, 1803, and the decree of the French general, Ferrand; the principal violations by England of the neutral rights of America, prior to the Berlin decree of November, 1806, and which, if acquiesced in, might have given grounds of complaint to France, are the capture of American vessels laden with colonial produce, founded on a renewal of that pretended principle generally called "the rule of 1756," the impressment of American seamen, compelled thereby to become the auxiliaries of England against France, and proclamation or nominal blockades, particularly that of the coast from the river Elbe to Brest, notified in May, 1806.

It will not be asserted, that the United States ever tamely acquiesced in either of those pretensions. It will not be denied, that with respect to the two first, the most strenuous efforts were incessantly made to procure an alteration of the British system.

It is true, that to the nominal proclamation blockades of England, the United States had opposed only spirited and repeated remonstrances, and that these had not always been successful. But the measures which a neutral nation may be supposed bound to take, against the infractions of its neutrality, must always bear a certain proportion to the extent & nature of the injury received, and to the means of opposition. It cannot certainly be pretended, that a hasty resort to war should in every such instance have become the duty of America. Nor can the irregularities of England, in declaring in a state of blockade, a certain extent of coast, part of which was not, and the whole of which could not, even by her powerful navy, be actually invested and blockaded, be plead in justification of that decree, by which France, without an efficient fleet, pretends to announce the blockade of the dominions of a power which has the incontestible command of the sea, and before no port of which, she can station a single vessel.

The Milan decree of 1807 can still less rest for its defence on the supposed acquiescence of the U. States in the British orders of the preceding month, since those orders, which have not certainly been acquiesced in, were not even known in America at the date of the decree. And it is proper here to add, that the French have, particularly by the sequestration of certain vessels in their ports, and by burning our ships on the high seas, gone even beyond the tenor of their own extraordinary edicts.

The allegation of an acquiescence in the Berlin decree of November 1806, by which alone the British government pretends to justify the orders of council, is equally unfounded. In the note on that subject, addressed on the 31st of December 1806, by the British government to the American ministers, after having stated that "they could not believe that the enemy would ever seriously attempt to enforce such a system," the following declaration is expressly made, "If, however, the enemy should carry these threats into execution, and if neutral nations, contrary to all expectation, should acquiesce in such usurpations, his majesty might probably be compelled, however reluctantly, to retaliate in his just defence, &c." The two requisites necessary in the opinion of Great Britain to justify retaliation, are stated to be, the execution of the decree, and the acquiesence of neutral nations. Yet, within eight days after, and in the face of that declaration, without waiting for ascertaining either of those facts, the retaliating British order of January was issued, contrary to the acknowledged law of nations, subjected to capture, vessels of the United States sailing from the ports of one belligerent to a port of *another* belligerent.

The United States in the mean while, and without delay, had taken the necessary steps to ascertain the manner in which the French government intended to execute their decree.

That decree might be construed merely as a municipal law forbidding the introduction of British merchandize, and the admission of vessels coming from England. Under that aspect, and if confined to that object, the neutral rights of America were not affected by its operation.

A belligerent may without any infraction of neutral rights forbid the admission into his ports of any vessel coming from the ports of his enemy.—And France had undoubtedly the same right to exclude from her dominions every species of British merchandize, which the United States have exercised in forbidding the importation of certain species. Great Britain might be injured by such regulations: but America had no more right to complain of that part of the decree, than France had to object to the American non-importation act. So far indeed as respects the United States, they were placed by the municipal part of the decree in the same situation, in relation to France, in which they are placed in their intercourse with Great Britain by the permanent laws of that country. The French decree forbids American vessels to import British merchandize into France. The British navigation act forbids American vessels to import French merchandize into England.—But that broad clause of the Berlin decree which declared the British islands in a state of blockade, though not followed by regulations to that effect, still threatened an intended operation on the high seas. This if carried into effect would be a flagrant violation of the neutral rights of the United States, and as such they would be bound to oppose it. The minister of the United States at Paris, immediately applied for explanation on that subject; and the French minister of marine on the 24th December, 1806, seven days before the date of the above mentioned note of the British government, stated in answer, that the decree made no alteration in the regulations then observed in France with regard to neutral navigation, or to the commercial convention of the United States with France. That the declaration of the British islands being in a state of blockade did not change the existing French laws concerning maritime captures, and that American vessels could not be taken at sea for the mere reason of their being going to, or returning from an English port.

The execution of the decree comported for several months with those explanations: several vessels were arrested for having introduced articles of English growth or manufacture, and among them some which being actually from England, and laden with English colonial produce, have entered with forged papers, as if coming from the United States. But no alteration of the first construction given by the French government took place until the month of September, 1807. The first condemnation on the principle that the decree subjected neutral vessels to capture on the high seas, was that of the Horizon on the 10th of October following. Prior to that time there could have been no acquiescence in a decree infringing the neutral rights of the United States, because till that time it was explained, and what was more important, executed in such manner as not to infringe those rights, because until then no such infraction had taken place.—The minister of the United States at London, at the request of the British minister, communicated to him on the 18th October, 1807, the substance of the explanations received, and of the manner in which the decree was executed. For they were at that time ignorant of the change which had taken place.

It was on the 18th of September, 1807, that a new construction of the decree took place; an instruction having on that day been transmitted to the council of prize by the minister of justice, by which the court was informed, that French armed vessels were authorised, under that decree, to seize without exception, in neutral vessels either English property or merchandize of English growth or manufacture. And this construction having been asked from the French minister of foreign relations, he confirmed in his answer of the 7th of October, 1807, the determination of his government to adopt that construction. Its first application took place on the 10th of the same month, in the case of the Horizon, of which the minister of the United States was not informed until the month of November; and on the twelfth of that month, he presented a spirited remonstrance against that infraction of the neutral rights of the United States. He had, in the meanwhile, transmitted to America the instruction to the court of prizes of the 18th of September. This was received on the of December; and a copy of the decision in the case of the Horizon, having at the same time reached government, the President aware of the consequences which would follow that new state of things, communicated immediately to Congress the alteration of the French decrees, and recommended the embargo, which was accordingly laid on the 22d of December, 1807; at which time it was well understood, in this country, that the British orders of council, of November preceding had issued, although they were not officially communicated to our government.

On the 11th of that month those orders did actually issue declaring that all the ports of France, of her allies, and of any other country at war with England, and all other ports of Europe, from which, although not at war with England, the British flag was excluded, should thenceforth be considered as if the same were actually blockaded; that all trade in articles of the produce or manufactures of the said countries, should be deemed unlawful; and that every vessel trading from or to the said countries, together with all goods and merchandize on board, and also all articles of the produce or manufacture of the said countries, should be liable to capture and condemnation.

These orders cannot be defended on the ground of their being intended as retaliating on account of the Berlin decree, as construed, and uniformly executed from its date to the 18th September, 1807, its construction and execution having till then infringed no neutral rights. For certainly the monstrous doctrine will not be asserted even by the British government, that neutral nations are bound to resist, not only the acts of belligerent powers which violate their rights, but also those municipal regulations, which, however, they may injure the enemy, are lawful and do not affect the legitimate rights of the neutral. The only retaliation to be used in such cases, must be such as will operate on the enemy without infringing the rights of the neutral. If solely intended as a retaliation on the Berlin decree, as executed prior to the month of September, the British orders of council should have been confined to forbidding the introduction into Great Britain of French or enemy's merchandize, and the admission into British ports of neutral vessels coming from a French or other enemy's port. Indeed the ground of retaliation on account of any culpable acquiescence of neutrals in decrees violating their rights, is abandoned by the very tenor of the orders; their operation being extended to those countries from which the British flag was excluded, such as Austria, although such countries were neither at war with Great Britain, nor had passed any decree in any way affecting or connected with neutral rights.

Nor are the orders justifiable on the pretence of an acquiescence on the part of the United States, in the French decree as construed and executed subsequent to the 18th September, 1807, when it became an evident infraction of their rights, and such as they were bound to oppose. For their minister at Paris immediately made the necessary remonstrances; and the orders were issued not only without having ascertained whether the United States would acquiesce in the injurious alteration of the French decree, but more than one month before that alteration was known in America. It may even be asserted that the alteration was known in England when the orders of council were issued; the instruction of the 18th September, 1807, which gave the new and injurious construction, not having been promulgated in France, and its first publication having been made in December, 1807, and by the American government itself.

The British orders of council are, therefore, unjustifiable on the principle of retaliation, even giving to that principle all the extension for. They are in open violation of the solemn declaration made by the British ministers in December, 1806; that retaliation on the part of Great Britain would depend on the execution of an unlawful decree, and on the acquiescence of neutral nations in such infraction of their rights. And they were also issued, notwithstanding the official communication made by the ministers of the United States, that the French decree was construed and executed so as not to infringe their neutral rights, and without any previous notice or intimation denying the correctness of that statement.

The Berlin decree as expounded and executed subsequent to the 18th Sept. 1807, and the British orders of council of the 11th November ensuing, are therefore as they affect the U. States contemporaneous aggressions of the belligerent powers, equally unprovoked and equally indefensible on the presumed ground of acquiescence. These, together with the Milan decree of December, 1807, which filled the measure, would on the principle of the self-defence have justified immediate hostilities against both nations on the part of the United States. They thought it more eligible in the first instance by withdrawing their vessels from the ocean, to avoid war, at least, for a season, and at the same time, to snatch their immense and defenceless commerce from impending destruction.

Another appeal has in the mean time been made, under the authority vested in the President for that purpose, to the justice and true interest of France and England. The propositions made by the United States, and the arguments urged by their ministers are before Congress. By the very pretext of the illegal edicts was removed; and it is evident that a revocation by either nation on the ground on which it was asked, either must have produced, what both pretended to have in view, a restoration of the freedom of commerce and of the acknowledged principles of the law of nations; or in case of refusal by the other belligerent, would have carried into effect, in the most efficient manner, the ostensible object of the edicts, and made the United States a party in the war against him.

The effort has been ineffectual. The propositions have been actually rejected by one of the belligerent powers, and remain unanswered by the other. In that state of things, what course ought the United States to pursue? Your committee can perceive no other alternative, but abject and degrading submission; war with both nations; or a continuance and enforcement of the present suspension of commerce.

The first cannot require any discussion. But the pressure of the embargo, so sensibly felt, and the calamities inseparable from a state of war, naturally create a wish that some middle course might be discovered, which should avoid the evils of both, and not be inconsistent with national honor and independence. That allusion must be dissipated; and it is necessary that the people of the United States should fully understand the situation in which they are placed.

There is no other alternative, but war with both nations, or a continuance of the present system. For war with one of the belligerents only would be submission to the edicts and will of the other; and a repeal in whole or in part of the embargo must necessarily be war or submission.

A general repeal without arming, would be submission to both nations.

A general repeal and arming of our merchant vessels, would be war with both, and war of the worst kind, suffering the enemies to plunder without retaliation upon them.

A partial repeal must, from the situation of Europe, necessarily be actual submission to one of the aggressors, and war with the other.

The last position, is the only one on which there can be any doubt; and it will be most satisfactorily demonstrated by selecting amongst the several modifications, which might be suggested, that which may on first view appear the least exceptionable; a proposition to repeal the embargo, so far only as relates to those powers, which have not passed or do not execute any decrees injurious to the neutral rights of the United States.

It is said that the adoption of that proposition would restore our commerce with the native powers of Asia and Africa, and with Spain, Portugal & [illegible] and [illegible] though the precise line of conduct now pursued by most of those nations, in relation to the United States, is not correctly ascertained. So far as relates to any advantages which would result from that measure, if confined to its ostensible object, it will be sufficient to observe that the exports of articles of the domestic produce of the United States, during the year, ending the 30th September, 1807, amounted to $48,700,000, and that the portion exported to the countries above enumerated, falls short of seven millions; an amount too inconsiderable, when compared with the bulk of our exports, to deserve attention, even if a question affecting the independence of the nation was to be decided by considerations of immediate profit.

But the true effect of the proposition would be to open an indirect trade with Great Britain, which, through St. Bartholomew & Havannah, Lisbon, Cadiz or Gottenburg, would receive, at prices reduced by glutted markets and for want of competition, all the provisions, naval stores, raw materials for her manufactures, and other articles which she may want. Whether she would be satisfied with that favorable state of things, or whether, considering that boon as a pledge of unqualified submission, she would, according to the tenor of her orders, interrupt our scanty commerce with Russia, and occasionally, under some new pretext, capture rather than purchase the cargoes intended for her own use, is equally uncertain and unimportant.—Nor can it be doubted that a measure which would supply exclusively one of the belligerents, would be war with the other. Considered merely as a question of profit, it would be much more eligible at once to raise the embargo in relation to Great Britain, as we would then, at least, have the advantages of a direct market with the consumer.—But the proposition can only be defended on the ground that France is the only aggressor, and, that having no just reason to complain of England, it is our duty to submit to her orders. On that inadmissible supposition, it would not only be more candid, but also a more dignified, as well as more advantageous course, openly to join England, and to make war against France. The object would be clearly understood, an ally would be obtained, and the meanness of submission might be better palliated.

It appears unnecessary to pursue any further the examination of propositions, which the difficult situation of the United States could alone have suggested, and which will prove more inadmissible, or impracticable, as the subject is more thoroughly investigated. The alternative is painful; it is between a continued suspension of commerce and war with both England and France.—But the choice must ultimately be m[illegible]