SUPPLEMENT

TO THE

REPUBLICAN STAR.

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DOCUMENTS

ACCOMPANYING THE PRESIDENT'S MESSAGE.—(CONTINUED)

MR. FOSTER TO MR. MONROE.

Washington, July 24th, 1811.

SIR,

Having been unable to ascertain distinctly from your letter to me of yesterday's date, whether it was the determination of the President to rest satisfied with the partial repeal of the Berlin and Milan Decrees, which you believe has taken place, so as to see no reason in the conduct of France for altering the relations between this country and Great Britain by exercising his power of suspending the operation of the non-importation act, allow me to repeat my question to you on this point as contained in my letter of the 14th inst. before I proceed to make any comments on your answer.

I have the honor to be, with distinguished consideration, sir, your most obedient humble servant,

AUG. J. FOSTER.

MR. FOSTER TO MR. MONROE.

Washington, July 26, 1811.

SIR,

I have had the honor to receive your letter of July 23 in answer to mine of the 3d and 14th instant, which you will permit me to say were not merely relative to his majesty's Orders in Council, and the blockade of May, 1806, but also to the President's proclamation of November, and to the consequent act of Congress of March 2, as well as to the just complaints which his royal highness the Prince Regent had commanded me to make to your government with respect to the proclamation and to that act.

If the United States' government had expected that I should have made communications which would have enabled them to come to an accommodation with G. Britain on the ground on which alone you say it was possible to meet us, and that you mean by that expression a departure frnm our system of defence against the new kind of warfare still practised by France, I am at a loss to discover from what source they could have derived these expectations, certainly not from the correspondence between the Marquis Wellesley and Mr. Pinkney.

Before I proceed to reply to the arguments which are brought forward by you to shew that the Decrees of Berlin and Milan are repealed, I must first enter into an explanation upon some points on which you have evidently misapprehended, for I will not suppose you could have wished to misinterpret my meaning.

And first in regard to the blockade of May, 1806, I must avow that I am wholly at a loss to find out from what part of my letter it is that the President has drawn the *unqualified* inference that should the orders in council of 1807 be revoked, the blockade of May, 1806, would cease with them. It is most partial that on this point no mistake should exist between us. From your letter it would appear as if on the question of blockade which America had so unexpectedly connected with her demand for a repeal of our Orders in Council, G Britain had made the concession required of her; as if, after all that has passed on the subject, after the astonishment and regret of his majesty's government at the United States' having taken up the view which the French government presented of our just & legitimate principles of blockade which are exemplified in the blockade of May, 1806, the whole ground taken by His Majesty's government was at once abandoned. When I had the honor to exhibit to you my instructions, and to draw up as I conceived according to your wishes and those of the President, a statement of the mode in which that blockade would probably disappear, I never meant to authorise such a conclusion, and I now beg most unequivocally to disclaim it. The blockade of May, 1806, will not continue after the repeal of the Orders in Council, unless his majesty's government shall think fit to sustain it by the special application of a sufficient naval force, and the fact of its being so continued or not, will be notified at the time. If in this view of the matter, which is certainly presented in a conciliatory spirit, one of the obstacles to a complete understanding between our countries can be removed by the United States' government waving all further reference to that blockade when they can be justified in taking a repeal of the orders, and I may communicate this to my government, it will undoubtedly be very satisfactory; but I beg distinctly to disavow having made any acknowledgement that the blockade would cease merely in consequence of a revocation of the Orders in Council; whenever it does cease, it will cease because there will be no adequate force applied to maintain it.

On another very material point, sir, you appear to have misconstructed my words; for in no one passage of my letter can I discover any mention of innovations on the part of Great Britain such as you say excited a painful surprise in your government. There is no new pretension set up by His Majesty's government. In answer to questions of yours as to what were the decrees of regulations of France which Great Britain complained of, and against which she directs her retaliatory measures, I brought distinctly into your view the Berlin & Milan Decrees, and you have not denied, because, indeed, you could not, that the provisions of those Decrees were new measures of war on the part of France, acknowledged as such by her ruler, and contrary to the principles and usages of civilized nations. That the present war has been oppressive beyond example by its duration, & the desolation it spreads through Europe I willingly agree with you, but the United States cannot surely mean to attribute the cause to Great Britain. The question between Great Britain and France, is that of an honorable struggle against the lawless efforts of an ambitious tyrant, and America can but have the wish of every independent nation as to its result.

On a third point, sir, I have also to regret that my meaning should have been mistaken. Great Britain never contended that British merchant vessels should be allowed to trade with her enemies, or that British property should be allowed entry into their ports, as you would infer; such a pretension would indeed be preposterous; but Great Britain does contend against the system of terror put in practice by France, by which, usurping authority wherever her arms or the timidity of nations will enable her to extend her influence, she makes it a crime to neutral countries as individuals that they should possess articles however acquired which may have been once the produce of English industry or of the British soil. Against such an abominable & extravagant pretension every feeling must revolt, and the honor no less than the interest of G. Britain engages her to oppose it.

Turning to the course of argument contained in your letter, allow me to express my surprise at the conclusion you draw in considering the question of priority relative to the French Decrees or British orders in council. It was clearly proved that the blockade of May 1806, was maintained by an adequate naval force & therefore was a blockade founded on just and legitimate principles, and I have not heard that it was considered in a contrary light when notified as such to you by Mr. Secretary Fox, nor until it suited the views of France to endeavor to have it considered otherwise. Why America took up the view the French government chose to give of it, & could see in it grounds for the French decrees was always matter of astonishment in England.

Your remarks on the modifications at various times of our system of retaliation will require the less reply from the circumstance of the Order in Council of April, 1809, having superceded them all. They were calculated for the avowed purpose of softening the effect of the original orders on neutral commerce, the incidental effect of those orders on neutrals having been always sincerely regretted by His Majesty's Government; but when it was found that neutrals objected to them they were removed.

As to the principle of retaliation, it is founded on the just & natural right of self-defence against our enemy; if France is unable to enforce her decrees on the ocean, it is not from the want of will, for she enforces them wherever she can do it; her threats are only empty where her power is of no avail.

In the view you have taken of the conduct of America in her relations with the two belligerents, and in the conclusion you draw with respect to the impartiality of your country as exemplified in the non-importation law, I lament to say I cannot agree with you. That act is a direct measure against the British trade, enacted at a time when all the legal authorities in the United States appeared ready to contest the statement of a repeal of the French decrees, on which was founded the President's proclamation of November 2d, and consequently to dispute the justice of the proclamation itself.

You urge, sir, that the British government promised to proceed *pari passu* with France in the repeal of her edicts. It is to be wished you could point out to us any step France has taken in the repeal of hers. Great Britain has repeatedly declared that she would repeal when the French did so, & she means to keep to that declaration.

I have stated to you that we could not consider the letter of August 5, declaring the repeal of the French edicts provided we revoked our orders in council, or America resented our not doing so, as a step of that nature; and the French government knew that we could not; their object was evidently while their system was adhered to in all its rigor, to endeavor to persuade the American government that they had relaxed from it, and to induce her to proceed in enforcing the submission of Great Britain to the inordinate demands of France It is to be lamented that they have but too well succeeded; for the United States' government appear to have considered the French declaration in the sense in which France wished it to be taken, as an absolute repeal of her decrees without adverting to the conditional terms which accompanied it.

But you assert that no violations of your neutral rights, by France occur on the high seas, and that these were all the violations alluded to in the act of Congress of May 1810. I readily believe indeed that such cases are rare, but it is owing to the preponderance of the British Navy that they are so, when scarce a ship under the French flag can venture to sea without being taken, it is not extraordinary that they may make captures. If such violations alone were within the purview of your law, there would seem to have been no necessity for its enactment. The British Navy might have been safely trusted for the prevention of this occurrence. But I have always believed, and my government has believed that the American Legislators had in view in the provisions of their law as it respects France not only her deeds of violence on the seas, but all the novel and extraordinary pretensions and practices of her government which infringed their neutral rights.

We have had no evidence as yet of any of those pretensions being abandoned. To the ambiguous declaration in Mr. Champagny's note is opposed the unambiguous and personal declaration of Bonaparte himself. You urge that there is nothing incompatible with the revocation of the Decrees in respect to the United States in his expressions to the Deputies from the Free Cities of Hamburg, Bremen and Lubeck, that it is distinctly stated in that speech *that the blockade of the British Islands shall cease when the British blockades cease*, and that the French blockades shall cease in favor of those nations in whose favor G. Britain revokes hers, or who support their rights against her pretensions.

It is to be inferred from this and the corresponding parts of the declaration alluded to, that unless Great Britain sacrifices her principles of blockade which are those authorised by the established laws of nations, France will still maintain her Decrees of Berlin and Milan, which indeed the speech in question declares to be the fundamental laws of the French Empire.

I do not, I confess, conceive how these avowals of the Ruler of France can be said to be compatible with the repeal of his decrees in respect to the U. States. If the United States are prepared to insist on the sacrifice by Great Britain of the ancient and established rules of maritime war practised by her, then indeed they may avoid the operation of the French decrees but otherwise, according to the document it is very clear that they are still subjected to them.

The decree of Fontainbleau is confessedly founded on the decrees of Berlin & Milan, dated the 19th October, 1810, and proves their continued existence.—The report of the French Minister of December 8, announcing the perseverance of France in her decrees is still further in confirmation of them, and a re perusal of the letter of the Minister of Justice, of the 25th last December, confirms me in the inference I drew from it, for otherwise why should that minister make the prospective restoration of American vessels, taken after the 1st November, to be a consequence of non-importation and not of the French revocation. If the French government had been sincere, they would have ceased infringing on the neutral rights of America, after the 1st November: That they violated them; however, after that period is notorious.

Your government seem to let it be understood that an ambiguous declaration from Great Britain, similar to that of the French Minister, would have been acceptable to them. But, sir, is it consistent with the dignity of a nation that respects itself, to speak in ambiguous language? The subjects and citizens of either country would in the end be the victims, as many are already, in all probability, who from a misconstruction of the meaning of the French government have been led into the most imprudent speculations. Such conduct would not be to proceed *pari passu* with France in revoking our edicts, but to decend to the use of the perfidious and juggling contrivances of her cabinet, by which she fills her coffers at the expence of independent nations. A similar construction of proceeding *pari passu*, might lead to such decrees as those of Rambouillet, or of Bayonne, to the system of exclusion or of licences, all measures of France against the American commerce, in nothing short of absolute hostility.

It is urged that no vessel has been condemned by the tribunals of France on the principles of her decrees since the 1st November. You allow however, that there have been some detained since that period, and that such part of the cargoes as consisted of goods, not the produce of America, was seized, and the other part, together with the vessel itself, only released after the President's proclamation became known in France:—These circumstances surely only prove the difficulty, that France is under in reconciling her anti-commercial and anti-neutral system, with her desire to express her satisfaction at the measures taken in America against the commerce of G. Britain. She seizes in virtue of the Berlin and Milan decrees, but she make a partial restoration for the purpose of deceiving America.

I have now followed you, I believe, sir, through the whole range of your argument, and on reviewing the course of it, I think I may securely say that no satisfactory proof has as yet been brought forward of the repeal of the obnoxious decrees of France, but on the contrary that it appears they continue in full force, consequently that no grounds exist on which you can with justice demand of Great Britain a revocation of her orders in Council:—that we have a right to complain of the conduct of the American government in enforcing the provisions of the act of May, 1810, to the exclusion of the British trade, and afterwards in obtaining a special law for the same purpose though it was notorious at the time that France still continued her aggressions upon American commerce, and had recently promulgated anew her decrees, suffering no trade from this country, but through licences publicly sold by her agents and that all the suppositions you have formed of innovations on the part of Great Britain or of her pretensions to trade with her enemies are wholly groundless. I have also stated to you the view his Majesty's government has taken of the question of the blockade of May, 1806, and it now only remains that I urge afresh the injustice of the United States' government persevering in their union with the French system for the purpose of crushing the commerce of G. Britain.

From every consideration which equity, good policy or interest can suggest, there appears to be such a call upon America to give up this system which favors France to the injury of G Britain; that I cannot, however little satisfactory your communications are, as yet abandon all hopes that even before the Congress meet, a new view may be taken of the subject by the President, which will lead to a more happy result.

I have the honor to be, with very high consideration and respect, sir,

Your most obt humble servt.

AUG. J. FOSTER.

To the Hon. Jas. Monroe, &c. &c. &c.

MR. MONROE TO MR. FOSTER.

Department of State, 27th July.

SIR,

I had the honor to receive your letter of yesterday's date, in time to submit it to the view of the President before he left town.

It was my object to state to you in my letter of the 23th inst. that under existing circumstances, it was impossible for the President to terminate the operation of the non-importation law of the 2d March last: that France having accepted the proposition made by a previous law equally to Great Britain and to France, and having revoked her decrees, violating our neutral rights, and Great Britain having declined to revoke hers, it became the duty of this government to fulfil its engagements and to declare the non-importation law in force against G. Britain

This state of affairs has not been sought by the United States. When the proposition contained in the law of May last, 1810, was offered equally to both powers there was cause to presume that Great would have accepted it, in which event the non-importation law would not have operated against her

It is in the power of the British government, at this time to enable the president to set the non-importation law aside by rendering to the U. States an act of justice. If Great Britain will cease to violate their neutral rights by revoking her orders in council, on which event alone the President has the power, I am instructed to inform you that he will, without delay, exercise it by terminating the operation of this law.

It is presumed that the communications which I have had the honor to make to you, of the revocation by France of her decrees, so far as they violated the neutral rights of the United States, and of her conduct since the revocation, will present to your government a different view of the subject from that which it had before taken, and produce in its councils a correspondent effect.

I have the honor to be, &c.

(Signed)

JAMES MONROE.

Aug J. Foster, Esq. &c. &c. &c.

MR. MONROE TO MR. FOSTER.

Department of State, Oct. 1, 1811.

SIR,

I have had the honor to receive your letter of the 26th of July, and to submit it to the view of the President.

In answering that letter it is proper that I should notice a complaint that I had omitted to reply in mine of the 23d of July, to your remonstrance against the proclamation of the President of November last, and to demand which you had made, by the order of your government of the repeal of the non-importation act of March 2d of the present year.

My letter has certainly not merited this imputation.

Having shewn the injustice of the British government in issuing the Orders in Council on the pretext assigned, and its still greater injustice in adhering to them after that pretext had failed, a respect for Great Britain, as well as for the United States, prevented my placing in the strong light in which the subject naturally presented itself, the remonstrance alluded to, and the extraordinary demand founded on it, that while your government accommodated in nothing, the United States should relinquish the ground, which by a just regard to the public rights and honor, they had been compelled to take. Propositions tending to degrade a nation can never be brought into discussion by a government not prepared to submit to the degradation. It was for this reason that I confined my reply to those passages in your letter, which involved the claim of the United States on the principles of justice, to the revocation of the Orders in Council. Your demand, however, was neither unnoticed or unanswered. In laying before you the complete, and as was believed, irresistible proof on which the United States expected, and called for the revocation of the Orders in Council, a very explicit answer was supposed to be given to that demand.

Equally unfounded is your complaint that I misunderstood that passage which claimed, as a condition of the revocation of the Orders in Council, that the trade of Great Britain with the continent should be restored to the state in which it was before the Berlin and Milan Decrees were issued. As this pretension was novel and extraordinary, it was necessary that a distinct idea should be formed of it, and, with that view, I asked such an explanation as would enable me to form one.

In the explanation given, you do not insist on the right to trade in British property, with British vessels, directly with your enemies. Such a claim, you admit, would be preposterous. But you do insist by necessary implication into her ports of British manufacturer, or the produce of the British soil, when the property of neutrals: and that, until France removes that inhibition, the U. States are to be cut off by Great Britain from all trade whatever with her enemies.

On such a pretention it is almost impossible to reason. There is, I believe, no example of it in the history of past wars. Great Britain, the enemy of France, undertakes to regulate the trade of France; nor is that all; she tells her that she must trade in British goods. If France and Great Britain were at peace, this pretention would not be set up, nor even thought of. Has Great Britain then acquired in this respect, by war, rights which she has not in peace? And does she announce to neutral nations, that unless they consent to become the instruments of this policy, their commerce shall be annihilated, and their vessels shall be shut up in their own ports.

I might ask whether French goods are admitted into Great Britain, even in peace and if they are, whether it be of right, or by the consent and policy of the British government?

That the property would be neutralized does not affect the question. If the United States have no right to carry their own productions into France without the consent of the French government, how can they undertake to carry there those of Great Britain? In all cases it must depend on the interest and the will of the party.

Nor is it material to what extent, or by what powers, the trade to the continent is prohibited. If the powers who prohibit it, are at war with Great Britain, the prohibition is a necessary consequence of that state. If at peace, it is their own act; and whether it be voluntary or compulsive, they alone are answerable for it. If the act be taken at the instigation and under the influence of France, the most that can be said, is that it justifies reprisal against them, by a similar measure. On no principle whatever can it be said to give any sanction to the conduct of G. Britain towards neutral nations.

The United States can have no objection to the employment of their commercial capital in the supply of France, and of the continent generally, with manufactures, and to comprise in the supply those of Great Britain, provided those powers will consent to it. But they cannot undertake to force such supplies on France or on any other power, in compliance with the claim of the British government, on principles incompatible with the rights of every independent nation, and they will not demand in favor of another power, what they cannot claim for themselves.

All that G. Britain could with reason