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Monday, May 29.

DEBATE

On Mr. Randolph's motion for approving the late conduct of the President of the U. States ——Continued.

MR RANDOLPH having this morning called for a consideration of his motion, at a time when the Speaker conceived it to be out of order, Mr. R. appealed from the decision of the chair, which was confirmed by the House. Mr. R. then renewed his motion for consideration, which, being then declared to be in order, was agreed to. The question being on indefinite postponement,

MR. RANDOLPH said it was no part of his intention now to enter into any thing like a consideration of the great points supposed to be in dispute between those who approved the conduct of the President of the United States in issuing his proclamation, and giving the construction which he had given to the non-intercourse act. And indeed, if on the last vote which had been taken, (for considering his motion) he could with any sense of decorum or propriety have voted against himself, if he could have voted in the negative on his own motion, he should have taken a pleasure in so doing. For he, as much as any member of this House, wished to hear the communications lying on the table, but he was also anxious to see a question of right with respect to himself decided; and to his perfect satisfaction, the House had supported the decision of the chair, and yet the course which the business would take was precisely the same as if the House had admitted his motion in the first instance to be in order, except that some three quarters of an hour or more had been occupied in discussing the point of order. I wish (said Mr. R.) to make some answer to the objections of a very venerable gentleman from Pennsylvania, (Mr. Findley) on the motion which it is now proposed to postpone. I think the principal objection of that gentleman was, that it was improper at any time to discuss or entertain such propositions—that motions in approbation or disapprobation of the conduct of the Executive of the United States ought not to be agitated here; that they are wrong in principle; and that how much soever he might be disposed to applaud the conduct of the President in this or in that particular, he would not countenance a motion approving that conduct. What weight it will have with the other members of this House (said Mr. R.) I know not, but there is a precedent on file which ought not to be destitute of weight with that gentleman, from the 1st session of the 3d Congress, which met at Philadelphia in November, 1793, soon after the late General Washington had issued his celebrated proclamation of neutrality—and I beg the House to carry along with them in their minds the similitude of the two occasions and the dissimilitude too, and to keep in recollection that wherever there is a difference between the two cases, the advantage is on the side of the motion which I have had the honor to lay before you. For example, in the year 1793, previous to the 1st session of the 3d Congress, the late General Washington, conceiving himself to be required by his duty as President of the United States to issue a certain proclamation—and recollect that the present motion is relative to a proclamation, and hinges entirely on it—which proclamation Gen. Washington was not required to issue by any law of the land, I find that at that time the gentleman from Pennsylvania and another gentleman from Pennsylvania, an ancient colleague of his (Mr. Smilie) and several other members of the present Congress were then members of the House of Representatives; and it appears on the journal that on that very day the committee of elections did report that the credentials of these gentlemen entitled them to their seats. I am consequently to suppose their presence, except I were to suppose (what I have no right or disposition to do) that there was some dereliction of duty on their part, and that they were absent from their seats. The Yeas and Nays indeed were not taken; but on Friday the 26th, the House resolved unanimously to address the President of the United States in the words following—I do not mean to fatigue the House or myself with reading the whole of it, but will read extracts.

"The United States having taken no part in the war which had embraced in Europe the powers with whom they have the most extensive relations, the maintenance of peace was justly to be regarded, as one of the most important duties of the magistrate charged with the faithful execution of the laws. We accordingly witnessed with approbation and pleasure, the vigilance with which you have guarded against an interruption of that blessing *by your proclamation*, admonishing our citizens, of the consequences of illicit or hostile acts towards the belligerent parties; and promoting by a *declaration of the existing legal state of things*, an easier admission of our right to the immunities belonging to our situation.

Now here, sir, is a vote of approbation proposed on the subject of a proclamation which the President of the United States was called upon by no law of the land to issue, and on the execution of which duty in a manner comporting with their sense of that duty, depended the approbation or disapprobation of this House—and surely, sir, if it was competent for the House of Representatives in the year 1793, to the gentleman from Pennsylvania, and other gentlemen, now members of this House, to approbate the conduct of President Washington in issuing that proclamation, which he was not required to do by any specific statute, it is surely at least as proper now to approve the conduct of President Madison in a case in which it was his special duty to do it. Where there is a variance between the two cases, it is in favor of the motion which I have the honor to submit. But perhaps I shall be told by some of those youthful spirits who have lately made their appearance in this House, that this is a precedent taken from *federal* times, and therefore ought not to be relied on by good democrats. But, sir, it unfortunately happens for those gentlemen who would thus evade the force of it, that in the very zenith of democracy, a precedent perfectly analogous or even stronger than the one now contended for, was entered upon our journal. At the second session of the 7th Congress (the first which convened after the election of Mr. Jefferson to the chief magistracy) the House of Representatives were moved to come to the following resolution, in relation to the obstruction of the navigation of the river Mississippi and of the right of deposit at New Orleans by the Spanish government of Louisiana.

"*Resolved*, That this House receive with great sensibility the information of a disposition in certain officers of the Spanish government at New Orleans, to obstruct the navigation of the river Mississippi as secured to the United States by the most solemn stipulations:

"That adhering to that humane and wise policy which ought ever to characterise a free people, and by which the United States have always professed to be governed; willing at the same time to ascribe this breach of compact to the unauthorised misconduct of certain individuals, rather than to a want of good faith on the part of his Catholic Majesty; *and relying with perfect confidence on the vigilance and wisdom of the Executive they will wait the issue of such measures as that department of the government shall have pursued for asserting the rights and vindicating the injuries of the U. States: holding it to be their duty at the same time, to express their unalterable determination to maintain the boundaries and the rights of navigation and commerce through the river Mississippi as established by existing treaties.*"

On that occasion it did unfortunately happen that there were gentlemen in this House who had no disposition to express any such confidence in the President of the United States, as I am afraid and do verily and in my conscience believe there are now gentlemen who have no disposition to express approbation (because they feel none) of the late conduct of the President of the United States—these gentlemen then moved to strike out these words—(the words in *Italic* in the above resolution)—which passed in the negative, yeas 30, nays 53. Mr. Randolph here read the names of those who had voted for or against. Now, he said, he was not at all surprized that the gentleman from Connecticut (Mr. Dana) and others who did not feel that confidence in the late President, therefore voted against expressing it; and now also, he presumed, the gentleman would vote, as others would, according to the sentiment he felt. But, said Mr Randolph, *we*, who did feel confidence, and had none of that punctilious repugnance at expressing what we felt, and could not see any thing in principle against expressing it, (not having at that time the benefit of the light shed on this subject by the venerable and reverend gentleman from Pennsylvania) voted in the negative. So much upon the question, whether there ever existed a case in which this House undertook to approve the conduct of the Executive of the United States in a delicate and critical juncture, particularly of our foreign affairs; the evidence which I have produced is conclusive; and the fact is, that if we get rid of this motion after the precedents which have been cited,—I do not say that they are binding; I do not feel them so; if I thought it wrong I should vote against it without reference to former precedent—but if we do become all of a sudden and in this particular point so very squeamish—the fact is, that the President of the U. States, if endowed with half the penetration which I presume he does possess, must take the hint; he must feel that there exists in this body a disapprobation of his conduct, although there be no disposition to express that disapprobation. For, sir, we should not have to go far back to seek for precedent to find a case where in point of practice a decision is condemned, and in point of vote upheld.

We have gotten all of a sudden, sir, into a sort of phobia of abstract proposition; we hear a great deal of passing votes out of which nothing is to grow. I would ask the worthy gentleman from Pennsylvania—I would not put that question to any other member but the worthy gentleman from Pennsylvania, because I understand his ground to be that there does not exist the right if there exists the power in this House to enter into a series of propositions which lead to no law.—Now, sir, at the last session, when a member got up and moved that the thanks of the House be given to the Speaker for the faithful and able discharge and so forth of his duties—that was not intended to originate a bill; nothing was to grow out of it, except a very unpleasant situation to the House and the gentleman in the chair. Would the gentleman from Pennsylvania then have contended that such a motion was inadmissible, and therefore ought to be indefinitely postponed? If I am not much misinformed, there was a motion indefinitely to postpone that proposition, which was negatived. Then it seems, sir, that we have an unlimited power of complimenting ourselves, that we may be guilty of self-flattery to any extent—for what is the Speaker of this House, in fact, but ourself? He is the creature of the House; they make him. When they compliment the Speaker, they compliment their own sagacity in selecting a person so competent to the discharge of his duty. For what does the Speaker say when conducted to the chair? That he will discharge the duties of his office *agreeably to the wishes of the House;* for which I presume he receives the vote of thanks. Now in this case the President of the United States has discharged the duties of his office, if not agreeably to the wishes of the House, certainly agreeably to mine; and therefore I would express my approbation—why? That it may stand on the journals as an expression of my opinion; although, let me tell you, Mr. Speaker, that some twenty or thirty years hence, when the little bickerings of this day are past and forgotten, that vote will be of value. It will tell—it will weigh heavily in the estimate of the character of the person in respect to whom it is passed; for when we go back to the journals, and look at the administration of Gen. Washington twenty years ago, do we think of the little party disputes of that time? We scarcely give ourselves trouble to consider how men were moved to their actions. It is of consequence to posterity too. What will the historian do in relation to the transactions of this administration? He will find that the first act was to restore harmony and intercourse between the United States and a foreign nation. Is he to be met at the threshold, is this conduct to be qualified by a vote upon your journals from which he will inevitably draw this inference—that although there did not exist a disposition openly to condemn the ministry, there existed a majority of a different way of thinking; and who therefore got rid of this question as dexterously as they could? No, sir; this vote (I hope I shall be pardoned for saying so) differs to its advantage from the vote for returning thanks to the Speaker of this House at the end of the last session of Congress. It is a vote out of which some practical good is to grow—a vote by which the President of the United States is to be strengthened in the course which he is now pursuing, and encouraged and invigorated in persisting in that course hereafter. It is not a mere motion in course, like a motion for a vote of thanks to the Speaker of the House of Representatives, which is at last considered as a matter of form, and has ceased to be a source of any thing but unpleasant sensation to the House; for I believe that from the time of the first Speaker, a member from Pennsylvania (Mr. Muhlenburg) who was succeeded by a member from Connecticut, (Mr. Trumbull) and afterwards by a gentleman from New-Jersey (Mr. Dayton;) subsequently by a colleague of yours, Mr. Speaker, (Mr. Sedgwick) and finally until the last Congress, by my worthy friend from North-Carolina, in every case this motion of thanks to the Speaker, which, if my motion be abstract, is equally abstract, has been made and carried—although I believe that the first time the motion was made after I obtained a seat in Congress, it was merely accidental that it carried at all—although no practical result upon gentlemen's own principles could ensue, and it ought therefore (as they say) to have been quashed. I on the contrary contend that practical good can ensue from my motion, and I think that my friend from North Carolina, whom I do not see in his place, (and I am glad that he is not in his place) must have felt his toils in the chair and even a broken constitution to have been amply compensated by three distinct and unanimous votes of three several Houses of Congress, returning thanks to him for his able and impartial conduct in the chair.

Although, sir, it be no part of my intention, as I said when I rose, to enter into the merits of the main question, I think it necessary to say a few words in explanation of what fell from me a few days ago, when unprepared to discuss this subject, when perhaps I was misunderstood, and very probably, because I may not have expressed myself as accurately as I could have wished. It has been stated that this offer on the part of the British government and acceptance on the part of ours—this truce or call it what you will, patched up between the two countries, is more disadvantageous to Great Britain than the late offer to suspend the embargo as to Great Britain and keep it on as to France, would have been if accepted. This is one of the cases in which my argument is fairly met, as far at least as it can be met by mere assertion—and, after the decision of this motion for indefinite postponement (which I perceive will be lost) on the discussion of the main question, all I ask of gentlemen is to state the argument as it really was offered, and if they refute it they shall have my best thanks; I shall listen to them with a mind perfectly open to conviction. But if gentlemen state something else, they cannot suppose that I will interrupt them in the course of their career of success against arguments not of my creation but of their own. I shall therefore in the course of this discussion take no kind of notice, of any statement of my argument that can be made unless it be a perfectly fair statement, and the true matter be met, any further than finally to recapitulate by way of reply what I conceive to be the true points in dispute. Here is one point: that as far as we have gone in the present adjustment, it is more disadvantageous to Great Britain than the proposal for suspending the embargo. That is a fact on which every man in the House is competent to decide, and one on which I deem the arguments offered by me to you to be so irresistibly conclusive, that I will not notice any thing in the way of assertion on this point farther than to suggest that this has been thrown out in the spirit of the proverb, that *good wine needs no bush.* Nothing is more common, in the state which I represent, than for a horse dealer having two horses, to dispose of, to give praise to the most indifferent, in proportion precisely as it is inferior to the other, because it is supposed that the good horse will always sell himself, and it is necessary to recommend the other by all the address of which that sort of people are never destitute. Now in the present case of the late adjustment of which nobody *openly* complains, it is supposed to be one which meets so general an approbation that it is not worth while to say much in its commendation. Now, sir, as this old horse is to be linked in the same team, if the jockey can once establish that he is a better nag than the grey mare, than that which is generally acknowledged to be good, his point is gained. That is the question in dispute; and until I hear the argument which I submitted to you last week answered, I shall say not one word upon it. To be sure, sir, if we allow that the proposition to suspend the embargo as to Great Britain was more advantageous for her than the late one, we must admit that it is more advantageous to Great Britain to have her ships excluded from our waters than admitted into them; that it is more advantageous to have the old non-importation act in force than to have it repealed; that it is more advantageous for her to have a difficult and hampered trade, and her ships of war excluded whilst those of France were admitted in perfect freedom, than to have her trade with us put on the footing on which it stood prior to the old non-importation act, and our trade to France cut off and French ships excluded. If gentlemen believe this, it is very well—I admire their faith. There is a point of fact on which it unfortunately happens that there has been and does exist in this House too much difference of opinion. It is a fact which can be established conclusively by your journals, and the reading of the documents received from the Executive when he recommended the embargo will convince gentlemen of it. Gentlemen say that the fact of the existence of the orders in council was known here when they are compelled to confess the President intimated nothing of it in his message. Produce the National Intelligencer; produce the passage so often alluded to in relation to these orders—and what conclusion is to be drawn from it?—Why, sir, that some speculation might have been hazarded on the subject, something in the way of conjecture. Do gentlemen believe that the late President of the United States had a peculiar diffidence in the National Intelligencer? Had he any peculiar diffidence in that paper, of all the papers in the world, that, when he sent the proclamation cut out of a British newspaper, he would not have sent us a file of the National Intelligencer or that article from which they say went to establish the existence of the orders in council? Had he any cause for peculiar diffidence in the National Intelligencer, that he would not send us an extract from that paper while he sent us extracts from others—even British papers. Or are gentlemen prepared to say that the conductors of that gazette have more certain information on the subject of our foreign concerns than is possessed by the President of the United States himself? I hope not, sir. The fact of the orders in council being known in this country by our government—they might have been known by the British minister—but their being known by our government and by us, and the embargo growing out of them is the point at issue. A gentleman told me the other day "You forget that though they were not known, the *probability of them was known.*" This is a new discovery—what kind of knowledge is this same knowledge of probability, sir? Their *probability* might have been *conjecture*—but did that imply a knowledge that such orders had issued or would issue? And can you assume that fact without throwing on the late President of the United States a degree of odium which in my opinion he is not fairly entitled to. I think it is treating him unjustly and cruelly to suppose that they were known. For, in supposing it, you pre-suppose that he has failed in his duty in communicating it in that message which recommended the embargo. The orders in council were not known in this city or in this House when the President of the United States recommended that embargo. I protest upon my honor that they were not known to me; nor did I hear them mentioned on that day. As to their having been known in New York, you might as well say that they were known in Quebec or Halifax, or even London itself. What does the fact of their having been known in New York prove but that they were known in N. York? Could that knowledge at New York be a rule of conduct for us? If the orders in council were known at the time that the President recommended the embargo, *let the proofs be produced;* and though I should not be willing to vote either approbation or disapprobation on this subject, I should be at a loss how to refuse a vote of disapprobation on the conduct of the late President of the United States for neglecting to apprise us of their existence. But he did his duty. He knew not of any orders in council, and mentioned none; the embargo grew out of the state of affairs which existed when we were in perfect ignorance of the orders in council, out of the correspondence from Paris in relation to the Berlin decree, and the British proclamation respecting seamen.

Sir, in speaking of the amendment moved by the worthy gentleman from