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Senate United States.

THURSDAY FEB. 13.

Debate on the following resolution.

2. *Resolved*, That the President of the U. S. be requested to demand and insist upon the restoration of the property of their citizens, captured & condemned on the pretext of its being employed in a trade with the enemies of Great Britain, prohibited in time of peace; and upon the indemnification of such American citizens, for their losses and damages sustained by these captures and condemnations: and to enter into such arrangements with the British government, on this and all other differences subsisting between the two nations, (and particularly respecting the impressment of American seamen,) as may be consistent with the honor and interests of the United States, and manifest their earnest desire to obtain for themselves and their citizens by amicable negociation, that justice to which they are entitled.

Mr. ISRAEL SMITH said that he was extremely sorry that he could not bring his mind to assent to the second resolution; because he viewed it of great importance that there should be unanimity upon a subject of this nature. He was not opposed to it from any constitutional objection, arising from a belief that the Senate had no right to give their advice and consent to the Executive, as to the course and conditions upon which they desired that an accommodation might be brought about; but he was opposed to it from the peculiar impropriety of so doing, deduced from the whole circumstances of the case, as it now presented itself for consideration. It would be recollected by the Senate, that many of our complaints against the British government were of long continuance; that they had been the subject of pointed and repeated remonstrances, and in a particular manner the impressment of our seamen: that on a former occasion they had committed vast spoliations on our commerce, not under the sanction of the laws of nations, as their subsequent transactions with our government have acknowledged; but under the authority of the particular orders of their government, thereby subjecting the property of our merchants upon the high seas, not only to the restrictions and forfeitures incurred by the law of nations, but also exposing it to all the vexations and forfeitures growing out of the caprice of British orders of capture. The late encroachments on our rights as a neutral nation, and which are now the subject of consideration, are of a nature similar to those we have before experienced, and proceed from the same unwarrantable cause; and further, are continued in full force and operation at the very moment our government is pressing upon their consideration, the injustice of their proceedings, by argument, too strong and convincing to admit of doubt. And how are they answered? By procrastination, and hints, that the necessity of the case is a sufficient justification. The Executive, indignant at this evasion, and despairing of redress by any farther appeal to their justice and magnanimity, has turned to the national legislature, and informed them that what remained to be done on this interesting subject must rest on the wisdom and firmness of Congress. We have already unanimously resolved, that the conduct of the British government is an "unprovoked aggression on our neutral rights." What, then, he asked, would be the measures looked for from this body, as proper to repel this outrage? Could any one expect that the first thing suggested to their mind would be, that the Executive should again immediately renew the negociation? Has he not already told us, that he despairs of obtaining redress by a simple appeal to their justice and magnanimity? Or is this resolution to be understood as speaking to the Executive a language like this?—You have not ably, zealously and perseveringly exercised the powers vested in you by the constitution, to bring about an adjustment of the difficulties and misunderstandings subsisting between the two governments; or you are not sufficiently impressed with the importance of stipulating an indemnification for the losses our merchants have already sustained. Or, that there is some avenues to a sense of justice in this nation, which you have not sufficiently attempted. Surely language like this is disrespectful. We ought not to adopt a resolution on a subject, as important as the present, without being able to assign a substantial reason. Are we fearful that the Executive, after we have afforded the necessary legislative impulse to this negociation, will be slack or unskilful in the application of it? Or do we, by these officious instructions, wish to derogate from his merit, by arrogating to ourselves that applause to which, upon a successful and satisfactory negociation, he will be justly entitled? Mr. Smith hoped that no consideration of this sort would influence the Senate. He believed there was a disposition in the Executive, when furnished with the necessary aid, to pursue negociation so long as the least gleam of hope of success remained. Beyond that, no one could ask him to persevere. He believed that each member of the Senate entertained the same opinion. Where then, he asked, is the use of this requisition to the Executive? Is it to be understood, as has been partially hinted by one honorable member, that there is no legislative aids which the Executive or this nation can wisely resort to on this occasion? Are we to be told that Congress have no power to lay duties on exports, or in short, that our powers are insufficient; or that we are too weak, or too dependent as a nation, to contend for our rights? We therefore recommend it to the Executive, (after having secured our merchants for past depredations) to enter into such arrangements and stipulations upon points in controversy, by mutual sacrifices; such as shall be likely to meet and promote the views of both parties, and thus recommend justice to be sacrificed to peace. For, he asked, what encroachment upon the rights of that nation, or depredations upon the property of its subjects have we to give up, for the purchase of this our indubitable right as a neutral nation, which they have so flagrantly and frequently violated. He hoped there was no disposition in the Senate to commute any of our rights as a nation, by sacrifices to any of the considerations before mentioned, and in a particular manner, by any abandonment of principles. And yet it appeared to him, if there is any pertinency in the resolution, this must be the interpretation. He observed it was extremely unwise to speak this language, both as it related to our own government, and that with which we have to contend. The latter will easily read in this resolution, the course which the Senate wish to pursue; and efforts will be made accordingly.—Should it not be in unison with the views of the Executive of our own government, it will weaken instead of strengthening his exertions for the public good. We have already experienced the evils resulting from too great an anxiety to enter into commercial regulations with that nation. A former treaty stipulated an indemnity to our merchants for similar depredations: that indemnity has ultimately devolved on our own government. We purchased the miserable commercial privileges of that treaty, (if it contained any) at the expence of our neutrality; and by doing violence to the obligations imposed upon us by that neutrality, drew down upon ourselves the resentment of a powerful nation, which involved an expence of more than 10 million of dollars. He observed it would be better for the government, in his opinion, to insure our merchants against any depredations, which the utmost rapacity of the British would be likely to invite; than again to enter into the unequal, the shameful, and wicked stipulation of the former treaty. He said gentlemen were not to understand that he was for actual hostilities against Great Britain. He deprecated war as much as any man.—If mild measures are adopted, the more certain will be the calculation of a perseverance in them; and without a spirit of perseverance little can be hoped from any measure. He hoped that Congress would be disposed on this occasion, to wield the only weapon which could promise success; that they may take such measures as will prove to G. Britain, that the U. S. will ultimately have no commerce with them, but upon terms of the most perfect reciprocity. This ground, if once taken, will be easily maintained; it is recommended by being both peaceable and effectual, while all others are doubtful and unequal. He concluded by hoping, that the resolution would be rejected, as it appeared to him disrespectful to the Executive, unnecessary, and inconsistent with the public good.

Mr. ANDERSON. Mr. President—The hon. member from Vermont (Mr. Smith) seems to entertain an opinion, that it will be indelicate toward the President of the U. S. to adopt the resolution now under consideration. Having been a member of the committee, who reported it, I feel somewhat bound, to endeavor to obviate this objection, having done which I shall then proceed to answer some other objections, and offer some seasons in favor of adopting the resolution. I expect it will be conceded, that if it be constitutional to pass this resolution, it cannot be indelicate toward the President. Let us examine the language of the constitution upon this point. The constitution says, that the President shall have power, by and with the advice and consent of the Senate, to make treaties. Now I contend that the true meaning of this clause is, that the advice should precede the making of the treaty, and that it was couched in the language in which we find it, for the purpose of obtaining the opinion of the Senate, as to the principles upon which the treaty should be made. And upon examining your executive journal, you will find that this construction was given to the constitution by General Washington; who, having been the President of the convention, must reasonably be supposed to have understood the true intent and meaning of the constitution in all its parts. And so far did he extend the construction for which I contend, that the executive journal will shew, in order to ask the advice of the Senate, relative to a treaty he contemplated making, that in the year 1790, he actually took his seat, in the President's chair of this body, and asked the advice of the Senate, upon sundry articles, which he proposed making the basis of the treaty. Thus, it would seem, that the first President of the U. S. in discharge of his duty, had given the foregoing construction to the constitution. Some inconveniencies having however been found to arise from this *mode* of asking the advice of the Senate, it has since fallen into disuse. But the latter practice cannot, nor ought not to be considered, as condemning the construction of which I conceive the constitution is fairly susceptible. Because the construction given by the first President, so immediately after the adoption of the federal constitution, must be considered as proceeding from the true sense and correct opinion, which he then entertained of the *respective rights* of the treaty making power.

In support of this construction, Mr. President, I can also shew, from your executive journals, so late as last session, that the Senate passed a resolution, requesting the President to make a treaty with the Creek nation of Indians. And although it may be said, that the Creeks not being a foreign nation, it is not an apposite case, I however conceive the principle to be precisely the same. For we have always treated the Indians as independent nations, and the same proceedings and formalities, have uniformly been had in making the treaties, and ratifying them, as have been had, with other nations. So much, Mr. President, I have thought proper to say, in order to shew, that if we pass this resolution, we do not offer any indelicacy to the President. But, on the contrary, will only exercise our constitutional power, which the peculiar and perilous situation of our country, seems imperiously to demand. I should not have taken up so much time, upon this point, had not the constitutionality of passing the resolution been also objected to by the other hon. member from Vermont, (Mr. Bradley.)

In discussing the merits of the resolution now under consideration, it will be necessary that we keep constantly in view the great principle of the one, which has already passed this House, by a unanimous vote, because this second resolution is predicated upon the principle of the first. In the first we declare, that the capture and condemnation, under the orders of the British government, and adjudication of their courts of admiralty, of American vessels and their cargoes on the pretext of their being employed in a trade with the enemies of Great Britain, prohibited in time of peace, is an unprovoked aggression upon the property of the citizens of the U. S. a violation of their neutral rights, and an encroachment upon their national independence.

In order to shew that the ground we have taken is correct, I will take leave to refer to a book (entitled an examination of the British Doctrine, which subjects to capture a neutral trade, not open in time of peace) ascribed to a gentleman high in office, who has deservedly acquired great celebrity in the political world. It will be found that the principle contended for in the resolution, I have cited, obtained as early as the first rise of regular commerce, and was even reduced to system, as early as 1338. To this doctrine Great Britain acceded by treaty with Sweden, in 1655, and afterwards, in 1674, she actually claimed and enjoyed the benefit of a free trade, she being at that time in peace, and the Dutch in war with France. With what kind of pretext can Great Britain pretend to deprive us of the exercise of the very rights which she herself had claimed and exercised upon precisely the same principles? Besides those neutral rights have, by constant and very long usage, become the established law of nations, and have from time to time been ingrafted into many treaties, even where G: Britain was herself a party. Upon this doctrine thus sustained, we request the President to demand and insist upon the restoration of the property of our citizens, captured and condemned on the pretext of its being employed in a trade with the enemies of Great-Britain, prohibited in time of peace, and upon the indemnification of such American citizens for their losses and damages sustained by these captures and condemnations. It has been objected that the language of this resolution is too strong, that the words *demand and insist* go too far; and that the absolute restoration of our vessels, &c. will by these words being retained, be made the *sine qua non* of an accommodation with Great Britain. If, sir, we were to express ourselves, in less forcible language, we should, in my opinion, subvert our own principles, and recede from the high ground we have taken, which might eventually radically destroy our neutral rights, and completely paralize our commerce.

The words *demand and insist* are diplomatic, and as such most proper to be used, and the more so, as they seem to be appropriate to the principle of the first resolution. But, Mr. President, the latter part of this resolution, by which indemnification may be made, & new arrangements entered into with Great Britain, so far ameliorate *those precedent words* that the President will possess ample powers, according to a true exposition of the whole taken together, and he will not, in my opinion, be trammelled in the manner the gentleman from Ohio conceives. In settling national differences, it has ever been necessary, in some points to give a little, and in others to take, according as the peculiar circumstances, upon which the negociation might happen to turn, either upon a point of national honor, or an interesting point of national commerce, or both so connected as not well to be severed. Upon the whole, Mr. President, I do believe it will be highly important that the Senate should, at this interesting moment, express their opinion upon our national concerns with Great Britain in such language, that the sense we entertain of our injuries cannot be mistaken. The principles and policy of our government require, that we should prefer negotiation in the first instance; and the adoption of the resolution, by a strong vote of this body, will doubtless add great weight to the object. If, however, we should unfortunately be driven to the dernier resort, I trust we shall never recede one point from the ground we have taken, as expressed in our first resolution.

(TO BE CONTINUED.)

For the NATIONAL INTELLIGENCER.

SO much has been said and published concerning Mr. Jefferson; his enemies have been so bitter and his friends have been so ardent, that between the extremes, 'tis difficult to ascertain the real data upon which opinions should be founded. The writer of this article is not about to take a middle course, following the maxim, "*in medio tutissime ibis*;" but because truth and reason have given the invitation.

Some writers have endeavored to persuade their readers, that Mr. Jefferson deserves or will deserve the apotheosis, while others insist that he is a candidate for a conspicuous niche in the temple of infamy. Each of these classes of writers obtain numberless advocates, who comment upon the texts of their leaders with equal fervor and intemperance. Neither will admit, that the subject of their eulogy or invective, as the case may be, ought to be brought to the standard of human attributes. Upon this subject, not only the most angry & vindictive passions upon one side, and the most enthusiastic encomiums upon the other have been long exerted, but each has been aided by the seductive charms of eloquence, and the tremendous thunder of invective and recrimination.

It is high time to close these hyperbolical scenes—to weigh the character of Mr. Jefferson in the scales of impartiality, and to treat it with such deference and respect as is due to the chief magistrate of a great, flourishing, free and enlightened people. To this end, let us view him in the execution of that office, and remember that he was, in the first instance, called to it by a constitutional and free election. And in the second, by a voice but little short of unanimity. Is it not, then, high time to close the scenes of these degrading contests, and to reject not only the stile of those who regard him as a demigod, but also to discountenance, the impassioned maledections of others who ascribe to him all the worst attributes of man.

With an honest intention to accomplish such purposes, the writer has taken up his pen. He entreats that all those who will either read or listen will discard the paroxisms of their own heated imaginations, and give way to the calm dictates of reason and truth. They are welcome to examine and to probe, but not to lacerate and dissect.

Mr. Jefferson, as we all know, has so conducted himself during the administration of the first term of his Presidency as to increase the popular sentiment in his favor, so far as to silence the voice of opposition. Many enemies have been neutralised, others have been converted, and his friends have received satisfactory confirmations in their first opinions. The character of Mr Jefferson, therefore, becomes more and more dear to the people of America. He cannot now be considered as the chief of a dominant faction, but as the legitimate representative of public rights and opinions. Our own character as a people, and the individual character of every American participates in that of our chief magistrate, because he is the man of our choice and has been fairly elected. Let us then admit of reasonable excuses for juvenile aberrations, if there were such. Let us take a grand, liberal and comprehensive view. Let us sum up the items of merit as well as of demerit, and strike an impartial balance. If this shall be done, who will be hardy enough to point his finger and say to Mr. Jefferson, you have been weighed and are found wanting!

Do the enemies and defamers of Mr. Jefferson, who ascribe to him a whole life of vice and immorality believe themselves? Do they recollect, when they emblazon the name of their chief magistrate in the pages of criminal accusation, and endeavor to sacrifice it on the altar of infamy, that at the same time they surrender the character of their own country, and that they involve themselves and all that belongs to them in the paricidal immolation? Will the enlightened men of Europe go to your court houses, or coffee houses, or caucusses, or will they read all the extravagant paragraphs of opposing partizans, to determine upon the weight of character which belongs to an elective chief magistrate? Far from it. They will look to the general character of the people. They will enquire by whom and under what circumstances the election has been made. If they find that it has been free, and that the people are independent, patriotic and virtuous, they will conclude that the general conduct of the chief magistrate is not less so.

But if these enquiries are not made, and the opinions of distant nations shall be formed from hostile publications, it will be then natural to believe, that the Americans are a base, ignorant and degenerate race. They will believe that the Americans delight in vices and crimes, and that the more conspicuous any man is in the callender of iniquity, the more acceptable he will be as a public servant. Ye calumniators and retailers of scandal, you are exhorted to pay regard to this admonition.

These observations open to the philosopher, patriot and philanthropist, a wide and extended scope. They afford a vast and comprehensive view of the character of man. They invite us to open general and generous accounts of debt and credit with every individual; and when we find much for applause for justification or for imitation, we ought not to disturb ourselves with measuring every trifling angle, which a particular individual in the course of a long and active life may have made.

But it is time to discontinue these general remarks, and to proceed to something which is more applicable to the case before us; something which will be more apt to occupy a place in the reader's memory. For this purpose I shall particularly draw the reader's attention to that part of Mr. Jefferson's conduct when he was governor of Virginia, because upon that, an illustration of his public character will greatly depend, and concerning which his constituents are or ought to be most anxious to know the truth.

The writer of this was an eye witness to some of those things which have been brought before the public, and now proposes to give a few details as they appeared to him. These details may be considered as replies to all which others have said, or as the evidences of facts, upon which, as far as they go, opinions may be formed.

Mr. Jefferson was the governor of Virginia in the year 1780, and 1781. In the winter of these years, and about Christmas, gen. Arnold made a short, unexpected and predatory expedition to Richmond. The surprise, alarm and consternation was great beyond description. The retreat was almost as precipitate, and Mr. Jefferson no doubt with others felt the force of the unexpected movement. Yet it has been well established by the testimony of many witnesses, and is confirmed by facts of public notoriety, that he afforded great and timely aid in the most important public concerns. But be this as it may, the circumstances which attended this revolutionary event; the vindictive, sanguinary and predatory character of the leader; the havoc and desolation which his followers spread around, could not fail to excite sensations of caution in the minds of all to whom these things were known. The retreat of Arnold restored temporary tranquility to the capital, and this depredator next took up his quarters at Portsmouth.

While Arnold was at Portsmouth, Mr. Jefferson, with Baron Steuben, organised a plan of military and naval operations, to be assisted by the commercial ships then in James River; which were well calculated to make captives of Arnold and his forces; but the arrival of a superior British force not only disappointed this well meant enterprise, but gave reason to fear, that Virginia was about to become the theatre of war. The plan was abandoned, and after some time the vessels were either captured or destroyed, and marrauding parties of a powerful foe made excursions and committed depredations in different directions.

One of these parties, headed by Arnold, appeared at Manchester, opposite to Richmond. The ware-houses and other buildings were burnt. During the conflagration, the writer of this saw Mr. Jefferson frequently in different conspicuous situations on the hills of Richmond. About the same time the vessels already alluded to were destroyed a few miles below Richmond, so that nothing prevented a detachment of the British from crossing, and falling upon Richmond in the rear; and as little to prevent the crossing of another party at Westham, about six miles above Richmond, from either of which Mr. Jefferson might have been exposed to capture.

Altho' these things were evident to the weakest understanding, it did not