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CONGRESS.
HOUSE OF REPRESENTATIVES.

DEBATE ON FOREIGN RELATIONS.
(Continued.)
June 23.

Mr. Taylor said that he too, as well as the gentleman just sat down, was very averse to changing our ground in relation to the belligerents. And having a view to the existence of this law, to the particular clause which does prohibit the armed ships of G. Britain from entering the waters of the U. States, the amendment proposed by the gentleman from Virginia, if adopted, will be changing that ground, and to the disadvantage of that nation. In what situation do we find ourselves? Commercial intercourse has re-commenced with Great Britain by the President's proclamation, but the British armed vessels are yet prohibited from entering our waters. And notwithstanding the doubts of the gentleman from New York (Mr. Gold) I never had any doubt that the President had not the power to rescind that part of the law.

I am for remaining in *statu quo*. I think it would be dishonorable in this government to take a step in advance of the position in which we have placed the Executive, and in which we now stand by the arrangement with the British government—it would not be fulfilling the promises which we have in our legislative acts undertaken to perform. On the other hand, it would be equally embarrassing and unpleasant that we should recede. It would be like placing a General on our frontier, during a war, with an hundred thousand militia, making a truce, taking away the men, and at the end of that time leaving him to fight his battles alone. I am averse to it. An expression fell from a gentleman from Virginia that the arrangement with Great Britain as it now stands was not complained of by her. The gentleman from New York was desirous of knowing whence the gentleman derived his information. As no complaint has come to this House or to the Executive on the subject, because if it had he would have stated it, as to the operation of the first and second clauses, it is a fair presumption, without having any other data on which to form our opinions than merely the circumstance of our not having it reported to us that this was a subject of difficulty, that it is quite satisfactory. Why we should volunteer to smooth the way I cannot discover. I consider the British government as perfectly satisfied with the situation which was produced by the acceptance of the offer to revoke the orders in council. If there is to be a discrimination at all, I would rather say that there are circumstances which would justify the continuance of the first section of the non-intercourse law with relation to the armed ships of Great Britain.—I would mention, for instance, the affair of the Impetueux; and as the subject of our seamen marched inland and incarcerated in France has been brought up by the gentleman from N. York, I would mention the six thousand American seamen not only incarcerated, but, more than that, compelled to fight the battles of a country not their own. I do not metion this by way of balancing accounts. I am satisfied with things as they are, and willing that they should remain so.—But in fact I do think that this throwing up our caps, this rejoicing for our great success, is beginning to rejoice before we have gained a victory.—There is a topic which by the gentleman from New York, in his very liberal mode of discussing a subject, might have been introduced here. I feel pain at introducing it; but it is a duty which I must perform. I ask whether this country is in a more friendly situation in relation to Great Britain than was the government of Denmark at two particular times. At both of these times the *sine quo non* war carried to her at the mouth of the cannon. Or are our relations with that government more friendly than were the relations between Great Britain and the Porte? The same sort of negociant materials were used, & the same sort of diplomacy was attempted to be played upon that government. What would be the sensation of this government, of the gentleman himself, if this sort of punishment for supposed breach of faith were carried into the harbor of New York? Sir, promises to negociate are not promises to settle every subject of difference. Mr. Rose was sent here for a particular purpose. Promises were made that he should come for that purpose. He came and he went away; nothing was done by him. The fact is, that, in our excessive desire to smooth the way to negociation, we may be smoothing the way to the destruction of this nation. For I should not expect energy from the President of the U. States on minor points of differences, where a refusal to concur in a proposed article might occasion the destruction of the principal city of the United States, whose consequence and importance we have so often heard of. It is unpleasant to mention these circumstances on the discussion of this subject; but it really does appear to me, whether this negociation is to end favorably or not, that it would be policy to adopt, as an irrevocable law of the land, a provision for the exclusion of all armed vessels. The true moral line of conduct which one nation is bound to observe to another with respect to the use of its ports and harbors, is precisely the same as repects the use of its *terra firma*; & the sending or admitting a navy into your waters, unless by compact, is no less a violation of neutral right or a concession on the part of the government yielding its than it would be to send or admit armies on your soil. And although we may not at this time be able, from the disturbed situation of the world, to carry the principle as far as I wish, I hope to see the day when not an armed vessel shall come into our waters, except she come in *hors du combat*, unable to injure any of our citizens.

I have thrown out these observations to shew that neither of the propositions meets my idea. But after the proposition now before the committee shall have been disposed of, I shall move that the 1st & 2d clauses of the non-intercourse, act shall also be revived and contained. That course, I think, by excluding both belligerent armed vessels, would be maintaining our ground and not changing that which our government has taken in relation to England, nor will it be conceding an iota of our ground in relation to France.

Mr. Dana said that on this subject a general question had been frequently brought into debate. A position was advanced that to admit armed ships into our ports was the same in point of public law and on the general principles of neutrality as to admit an army within our territory. However that question may be in regard to public law (said Mr. Dana) there are reasons why the government of the United States should pause, should pause long before it adopts the principle of exclusion of all public armed ships. What, sir! A nation founded in a spirit of enterprize, which has extended its commerce to every quarter of the world, which has risen to a state of prosperity which makes it the second nation in the world as to its commercial marine, which owes its importance to the hospitality of the world—this nation is at once to shut the door of hospitality against all nations!

The proposition, I understand is, that it would be proper to exclude all foreign armed ships. Let it be recollected that our ships employed in the most enterprising commerce are armed, and have a force nearly equal to the force of public armed vessels. Do we never expect that cruizers will harrass our commerce? And do we mean to abandon it, or that our vessels shall be suffered to perish for want of a port. When our commerce has been invaded in the Mediterranean, our public ships have been received with a hospitality too deeply felt by our navy and by our government to permit the adoption of such a principle as that hinted at.

Independently of this, if we ask the question generally of those who are acquainted with the point of fact in relation to public law and who are versed in the writers on the subject, whether there is not a strongly marked distinction between an army and navy, they will answer you in the affirmative; and will tell you that an army of one nation cannot enter the territory of a friendly power, without being restricted as to its course, and the limits under which it moves. But, as respects public ships of war, it never was deemed any violation of territory for them to come into port without ceremony, although general usage excludes armies, unless previous permission be obtained. And the nature of the thing authorises this distinction. This I believe the gentleman will find to be the correct doctrine which is stated by some of the latest writers on public law, more particularly by those on maritime law. I shall acknowledge the right of every power, for its own security, to decide that it will not admit the armed vessels of any power in such numbers as to endanger its peace; or to regulate them when they come into port. But the principle assumed is not the same as announced by writers on public law and explained by the usage of the world. There *is* a difference between maritime and territorial force. I am not, however, for bringing the subject into discussion at the present moment; I do not conceive that it has a bearing on the question.

As respects the amendment moved by the gentleman from Virginia (Mr. Sheffey)—I acknowledge that to me it does seem peculiarly contradictory in itself to say that the armed instruments of a government which wrongs us shall be received with open arms, and that the unoffending and inoffensive merchant vessels shall be excluded from our waters. I do not ask whether on this subject there is any contention with the British government, or whether the arrangements entered into bind us to one thing or the other. For myself I very much dislike the idea of being obliged to resist one belligerent power because another has ceased to wrong us. The broad principle on which we act should be different. It should be, that our rights we will maintain; and not that we will maintain them in consequence of the desire of any foreign power.

I am not pleased, sir, with any part of this system of non-intercourse. I think it peculiarly inconsistent to say that there are certain outrages continued, which are such as to induce us to stop all intercourse, and at the same moment to say that the merchant vessel which is the object of belligerent outrage shall be tamely surrendered up to spoil and destruction by armed vessels. For the course proposed I conceive to be this: When a palpable wrong is attempted to be inflicted on you, you permit the instruments of the outrage to partake of your hospitality. These vessels should certainly be the first objects of our displeasure. I therefore think it highly proper, when you exclude the commerce of a nation, also to exclude its armed ships. The armed ships of one of the belligerents seizes your merchant vessels, plunders them, and imprisons your seamen, and then comes into your waters. A respect to the peace and dignity of our own country ought to carry us so far as not to admit within our waters any vessel guilty of such an attack. It was one of the strongest arguments urged in favor of the prohibitory proclamation of the late President, that the excitement in the nation was so great that, as a measure of prudence, to preserve the peace of the nation, it was necessary for a time to exclude the whole British navy. The very fact of a nation's committing such outrages as to authorize all exclusion of intercourse, I consider a sufficient reason to refuse to it the rights of hospitality. I consider it much more compatible with the principle assumed at the last session of Congress, that the proposed amendment should take place. I do not know that the admission of French vessels rests upon any arrangement made at the last session. What was the report of the committee of foreign relations? What the import of all the votes passed by this House? The interdiction of commerce was put down as the consequence of the interdiction of armed vessels. Now it appears to me, that continuing the consequence and putting down the premises would be rather absurd. The report pledged us to the nation and to each other as to the integrity of our own character; it was a pledge on which the world were to rely as to the course which we would pursue when our rights are violated. Though, sir, as respects a nation which declares that it will not submit, if it will not resist without a declaration in words, I very much question whether it will be bound by promises. By this bill, therefore, I contend that the principle of last session, however correct, is very decidedly contradicted, except some such amendment as that which is proposed be adopted.

Mr. Rhea (of Ten.) observed, that the gentleman from Virginia, (Mr. Jackson) by withdrawing the amendment by him offered, had given particular pleasure; there, then, was reason to have hoped, that the bill under consideration might have passed on without alteration or amendment. This hope is destroyed—another amendment is proposed—it involves two points for consideration:—first, whether it be necessary to make an explanatory declaration, that the public ships and vessels of G. Britain and France, are not interdicted from the waters, harbors and hospitality of the U. S. by the 3d section of the non-intercourse law? And whether it be right to discriminate, or, in other words, to admit the public vessels of one of these powers, to wit, G. Britain, and to keep interdicted the public vessels of the other power? If the diction or expression of the first section of the non-intercourse law is attended to, and also, that of the third section of that law, it will appear that the object of the first section is to interdict all armed ships and vessels belonging to G. Britain or to except France, as therein excepted, from the waters, harbors, and hospitality of the U. S. For that purpose the first section declares, "That from and after the passage of this act, the entrance of the harbors and waters of the U. S. & of the territories thereof, be, and the same is hereby interdicted to all public ships and vessels, belonging to G. Britain or France, excepting vessels only which may be forced in by *distress* or which are charged with dispatches or business from the government to which they belong, and also packets having no cargo nor merchandize on board;" and that the object of the third section is to interdict the entrance of the harbors and waters of the U. S. and territories thereof, to ships and vessels sailing under the flag of G. Britain or France, or owned in whole or in part by any citizen or subject of either: and for that purpose the third section declares, "That from and after the twentieth day of May next, the entrance of the harbors and waters of the U. S. and the territories thereof, be, and the same is hereby interdicted to all ships or vessels sailing under the flag of G. Britain or France, or owned in whole or in part by any citizen or subject of either; vessels hired, chartered or employed by the government of either country, for the sole purpose of carrying letters or dispatches, and also vessels forced in by distress or by the dangers of the sea, only excepted." In the first section of the law, the words, "public ships and vessels belonging to Great Britain or France" are used. In the third section the words "ships or vessels sailing under the flag of Great Britain or France, or owned in whole or in part by any citizen or subject of either," are used. It is observable also, that the first section requires the interdiction, thereby provided for, to operate from and after the passage of the act, and the third section requires the interdiction thereby provided for to operate from after the twentieth day of May next, that is next after the passage of the act. The act was approved and became a law on the first day of March, in the year 1809—and therefore it may be concluded, that the interdiction provided for by the first section of the law operated on the second day of March next after the passage of the act, that is about eighty days previous to the day on which the interdiction provided for in the third section of the law was required to operate. The different periods determined by the law for the operation of the several interdictions, respectively provided for by the first and third sections, clearly prove, (even if there was no other reason,) that the interdiction provided for by the first section was designed to operate, (as the expression of the section clearly evinces) on the public; that is, the national armed ships and vessels belonging to G. Britain or France: and that the interdiction provided for by the third section, was designed to operate on the unarmed private merchant ships and vessels belonging in whole or in part to citizens or subjects of G. Britain or France, and sailing under the flag of either G. Britain or France. The term "public ships and vessels belonging to G. Britain or France" used in the first section—and the term "ships or vessels sailing under the flag of G. Britain or France," are not synonymous—they cannot be construed to mean and intend the same description of ships and vessels, for this reason, (if there was no other), that the law provides and limits distinct periods for commencement of the operation of the interdictions respectively provided for by the first and third sections: if then language is permitted to be the clothing or vehicle of distinct ideas, the first section of the law must be construed to operate against ships and vessels of one description or character—and the third section must be construed to operate against ships and vessels of another description or character.

Public ships or vessels are those which properly are denominated national or belonging to the sovereign. A public ship is national property, national territory, a part (if the expression will be permitted) of the national domain. A public ship is an armed floating fortress of the sovereign, completely equipt, fortified, manned and directed to maintain and guard the rights of the sovereign owner—a public ship or vessel, (in propriety of nautical expression) carries and displays the proud ensign of sovereignty; it is said to carry the flag or ensign of sovereignty, and is not said to sail under the flag or ensign of sovereignty; the reason is, the public ship goes forth, in the majesty of its owner, to guard and protect the weak, unarmed, defenceless merchant ships and vessels sailing under the flag of the sovereign of the nation, of which its owner is a citizen or subject—the merchant ship or vessel is said to sail under a flag, pointing thereby to the nation of which its owner is a citizen or subject, and manifesting that it sails under the protection of that nation. If then the distinction, that a public ship or vessel carries the ensign or flag of sovereignty; and that a private or merchant ship or vessel sails under the flag of sovereignty, be correct, (and there is every reason to believe it is) it goes incontestibly to prove that the diction or expression of the first section of the non intercourse law is proper and clearly defining an interdiction against armed ships and vessels; in other words, the public ships or vessels belonging to G. Britain or France exclusively. And that the diction or expression of the 3rd sec. of the non-intercourse law is proper, and clearly defining an interdiction against private unarmed merchant ships and vessels sailing under the flag of G. Britain or France, or owned in whole or in part by any citizen or subject of either country exclusively. From these considerations it may be concluded that there is no reason to adopt the proposed amendment on the ground of its being an explanatory declaration.

It may not be necessary to add to what has already been said respecting the other principle contained in the proposed amendment. On behalf of that discrimination in favor of G. Britain, it hath been urged, that the usages of nations, on the broad ground of morality, is to assist, consistently with their own interest, every nation. It would have been more satisfactory, if the gentleman had fully explained what he designed to be understood by the observation—Morality of nations! and you apply the observation to the old nations of Europe—What is it it? If more particularly it is applied to that nation who first began and continued its unjust oppressions against the U. S. from the odious stamp act to the present time—What is the conclusion? The enquiry would lead to a recapitulation of all the injuries, outrages, oppressions, miseries and wars inflicted by G. Britain on the U. S. Many fine things have been said of morality; but how much soever it is to be deplored, it is a stubborn truth, that the morality of the old governments of Europe consisted more in theory than practice. To what principle of morality is the past or present conduct of any of the same nations towards the U. S. to be ascribed? Let the gentleman tell; he appears to know all about it. But it seems that a nation is to act on the broad ground of morality in assisting