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CONGRESS.

HOUSE OF REPRESENTATIVES.

MONDAY, APRIL 11.

DEBATE on the reference of certain petitions from sundry inhabitants of Massachusetts on the subject of FISH, which they are prevented from exporting by the EMBARGO.

(Concluded.)

Mr. D. R. WILLIAMS said that when he had risen before, it had been to caution the House against what appeared to him a design to entrap them into an expression of a sentiment which they had not felt. I merely observed, said Mr. W. that if the gentlemen did not confine the resolution to a statement of facts, that I hoped it would not be adopted in any shape. Here a position is assumed that the embargo is made to operate peculiarly hard upon the fishermen. I do not believe that the gentleman from Massachusetts, out of his seat, would seriously have acknowledged this as his opinion. It is not a fact, sir; for if there be any thing "peculiar" in their situation they are peculiarly exempt. But the gentleman was presumptuous enough to presume that I am opposed to the consideration of his motion. I am not, sir: I never was opposed to the consideration of but two motions in my life; and I have been sorry for having opposed these. I was opposed to the consideration of a motion by a gentleman from Massachusetts (Mr. Livermore) for repealing the embargo; which was made for the purpose of giving him an opportunity to read a speech ready cut and dried for the Stenographer. I once voted against the consideration of a Yazoo petition, which the gentleman himself (Mr. Quincy) presented; perhaps he has not forgotten it. I perceive the folly of it; for that petition is now lying on the table, which would not have been suffered to have lain there three hours during the last session. The resolution of the gentleman does not state facts—[Mr. Quincy said the gentleman need not take that ground, for he had not an intention to express an opinion, and would modify his resolution so as to put it out of doubt that he had no such intention.]—Mr. W. said he did not question the gentleman's motives: he only thought the form of the proposition might induce a supposition that the gentleman had such an object in view.

The gentleman has undertaken to tell you, said Mr. W. that I have prejudices on the subject. He said he would convince me "with all my prejudices." If I so conduct myself in this House that I can be charged justly with entertaining unfair prejudices, I wish to understand it, that I may meet the charge; but before I will be subjected to such a charge unanswered, I will say that the expression was irrelative to the subject, indecorous to the House, and ungentlemanly to myself; and if the gentleman entertained such sensations as a gentleman would feel on such an occasion, he would not till now have persisted in it. [Mr. Quincy insisted on explaining.] Mr. W. called him to order. Mr. W. said he never had nor ever would unprovoked make use of an expression to wrong the feelings of any gentleman. I never refused any gentleman a right to explain, said he; and if the gentleman had desired to explain when I first touched the subject, I should not have called him to order. But the gentleman persisted; and I do humbly conceive, sir, that the charge of strong prejudices against any portion of citizens of this country when applied to me, was at least as indecorous as a declaration of ungentlemanly conduct applied to the gentleman from Massachusetts. I never will sit still and hear such charges; because no act of my life would authorise any man in making such an assertion. The gentleman is opposed to the embargo: I believe that he misrepresents the voice of the commercial states. He says he will take the opinion of the fishermen in preference to that of the gentleman from Virginia (Mr. Burwell)—and so will I take the expression of the opinion of a large proportion of the citizens of a commercial city (I mean the democrats of N. York) in preference to that of the gentleman from Massachusetts. I hope the resolution will be amended by striking out "peculiar hardships and sufferings" and inserting "inconvenience."

Mr. QUINCY said said when he used the word "prejudices," he certainly had no wish to wound the feelings of the gentleman from South Carolina, or of any other in the House. The word prejudice in this case applied only to his prejudices resulting from the very argument which the gentleman had used—that these fishermen were peculiarly favored instead of suffering under peculiar hardship. With reference to this opinion alone had he used the word prejudice. He owed this explanation not to the gentleman from S. Carolina, but to himself; because he never was in the habit of using language to wound the feelings of any member.

Mr. TAYLOR said he felt it a duty to express the feelings which really forced themselves upon him on hearing the expressions of the gentleman from Massachusetts, which could as well have been applied to any other quarter of the House as to his colleague. The word "prejudice" would not have had the same effect upon him in other circumstances; but the *Repertory*, from Boston, which came to hand on Saturday night, contained a sort of introduction to the word prejudice, in a letter from a gentleman in this city; in which the writer had taken upon himself to speak of the southern planters as being inimical to, and determined to ruin the commercial interest. Having read this, said Mr. T. and heard the expressions applied to my colleague, I could not but feel the observation. If indeed the gentleman has no prejudices against us, 'twould be as well to bury the hatchet; for I can assure the gentleman it is not correct to suppose that we entertain prejudices against our northern brethren. In order to explain the sensations I felt at hearing this word prejudices, I will refer gentlemen who have any curiosity on the subject to the "Repertory."

Mr. M'CREERY said there must be some mistake in this business. The gentleman from Boston (Mr. Quincy) could not have been the author of that letter; for he had just declared that he cared not what the merchants suffered, if the fishermen could but sell their fish.

Mr. COOK said it seemed that the observations on the reference of a few petitions respecting fish, had extended so far as to embrace the merits of the embargo. The gentleman on my right, said he, conceives the operation of the embargo to be particularly injurious to fishermen; it may operate severely upon them, but not more so than upon other citizens. As respects the mechanic, I cannot see how it can operate against him. We have accounts from every part of the country and the most respectable of our merchants conceive the embargo a beneficial measure. I know there is a difference of opinion; but the most correct commercial men in my district say that they should consider themselves embargoed if there were no embargo law. I ask how the embargo can operate such great distress as is ascribed to it? If the embargo were taken off, to what part of the world could the merchants send their ships with safety? Let the voyage be to whatever quarter they would be subject either to the shark or the tiger. It is said that the merchants could protect themselves. They know their interests better than to attempt it. Gentlemen might as well say, let us disband the government altogether. Government was instituted for wise purposes; and one express provision of our constitution is that we shall make all laws for governing commerce. The argument seems to be relied on against the embargo, because it is considered as a permanent measure. I never heard the embargo advocated on that ground, nor has any gentlemen ever so supported it. We have on our table a reso- resolution authorising the President under certain conditions to suspend the embargo. This certainly does not look like an intended continuance of the embargo longer than a safe policy dictates.

Some gentlemen have gone so far as to advocate a repeal of the embargo, because we cannot protect our native seamen, having passed such laws in relation to them as the usage of other nations has rendered expedient. It seems that G. Britain requires three fourths of the seamen on board her merchant vessels to be native citizens; and therefore, we are told, we ought to do the same. The gentleman from Connecticut (Mr. Dana) did not tell all the facts relative to that subject; for if he had, he would have said that this law is always repealed in time of war, and of course has no operation whatever. If the gentleman means to advocate the doctrine that we ought to mark every seaman of ours that he may not be mistaken, he wishes to degrade us indeed. Under what principle of justice or right are we to distinguish our seamen in any manner? Have we not at least an equal right to expect that G. Britain may slit her men in the ear, that she may avoid the unfortunate *mistakes* she often makes in taking *ours* instead of her own?

It is asked what benefit can it be to the American seamen that the British seamen under our flag should be exempt from impressment? That has already been completely answered; it is a benefit that all should be exempt, sir; because, when they have the privilege to take the goats, they will take the sheep with them. And I hope we never will submit to that species of summary process, in virtue of which a boatswain of a man of war may come on board our merchant vessels, and by pointing his finger cause our seamen to be *mistaken* for their own.

It has been said that the measures we have taken go to prostrate the mercantile interest. I have the interests of the merchants as much at heart, and they are dear to me as any one. I live with them and know them; and it would be unnatural in me to give my vote in favor of any measure which I conceived injurious to this respectable class of men. I conceive that all classes of the country, farmers as well as merchants, feel the embargo; and it is but justice to them to say that they bear it with magnanimity. I have no confidence in permanent embargoes, or non-importation laws; but the embargo with the discretionary power which I hope we shall give the President before we part hence, appears to me wise and expedient, and the best measure which could have been adopted for the safety of the country.

Mr. DANA wished to vindicate himself from the idea of "marking" our seamen; for really he had not entertained an idea that "slitting ears" and citizenship were synononimous terms.

Mr. SLOAN made some observations on the length of time occupied on this subject. He must needs say that had he been in the gallery, he should have supposed that the negociation war the subject of discussion; for the House had occupied half the day with what ought not to have employed 10 minutes.

Mr. Quincy's resolution, together with the petitions, were then referred to a committee of the whole, 56 to 26.

The subject was not further acted on during the session.

Letter of Messrs. Monroe and Pinkney, to Mr. Madison—Continued.

The eighth article which specifies the causes for which vessels may be captured or detained, including among them the circumstance of their having enemies property on board, is (except the last clause) a transcript of the 17th article of the treaty of 1794. The stipulation contained in that clause, that the parties shall be allowed adequate damages and charges of the trial in all cases of unfounded detention, or other contravention of the regulations of the present treaty, will, we presume, produce the salutary effect contemplated by it. There is perhaps no principle in the maritime pretensions of this country which has been more abused in practice, than that which this provision is intended to remedy. That damages should be allowed in all such cases is, it is true, a doctrine recognized by the court of admiralty. It cannot however be doubted that by providing for them in the treaty, the obligation to allow them will acquire greater force with the court and even the government itself, while it cannot fail to give an useful admonition to the cruizers.

The ninth article regulates what shall be deemed contraband of war.

The provision in the tenth article, relative to vessels sailing without knowledge of a blockade, is somewhat altered from the treaty of 1794. The precise effect of the change cannot perhaps be pronounced with certainty; but it seems to be clear that it cannot be otherwise than advantageous. The alterations consist in the introduction into the preamble of "the distance and other circumstances incident to the situation of the contracting parties" and of the word "such" into the provision which follows The first amendment appears to justify an inference that, on account of the peculiar circumstances, local and relative, thus recited as the reasons why, in the opinion of the contracting parties, "it may frequently happen that vessels may sail for a port or place, without knowing that it is besieged, blockaded or invested." Our vessels ought not to be liable to be judicially affected with knowledge of a blockade, so as to subject them to penalty by the evidence usually held to be sufficient for that purpose. Sir W. Scott decided in 1799, that in consequence of the distance of the U. States from Europe, we were entitled to a more favorable rule in that respect than other countries, and our article may be fairly considered as adopting that idea and acting upon it. On the foundation of the single fact of distance, sir W. Scott justified a conjectural destination from America to Amsterdam, although the blockade of that port had been notified, and the parties concerned were proved to have known of the commencement of it. The article as it now stands, seems necessarily to imply at least the same indulgence, and, if it does, it certainly goes farther than sir W. Scott's opinion, which does not admit that an enquiry can be made of the blockading force, as our article unquestionably does, in the cases to which it applies. It does not appear to be unreasonable to hold that, a peculiar motive being now assigned in the preamble for the provision which it introduces, a correspondent peculiar effect is contemplated by that provision; and no such effect can follow from it, if it be not that (as our distance makes it impossible "that we should have constant information of the state of the blockade, whether it continues, or is relaxed) the mere notification of the blockade, or even the knowledge that the blockade has been commenced de facto, shall not be sufficient to make the destination illegal, but that, notwithstanding such notification or knowledge, we shall receive warning at the port or place blockaded. The words "without knowing that the same is either besieged, blockaded, or invested," will admit of this interpretation, since by reason of our distance, it may in our case be truly said (and has in substance been judicially said) to be one thing to know that a blockade has been notified or instituted, and another that it continues. We endeavored, without success, to obtain the consent of the British commissioners to the article proposed in your project. They would only agree, as you will perceive, to take its preamble and engraft it upon the article of 1794, observing that this would give to that article a new and more favorable, though certainly an undefined character, and that at a moment when their maritime efforts in this mode of hostility might more than ever become indispensable to the national safety, it was impossible to do more. We pressed them long and earnestly to connect with the clause, a definition of blockade, to which, in the early stages of our negociation, it was believed, there would be no objection. We found them however, decidedly averse from such a definition by treaty, notwithstanding the precedent afforded by lord St. Helen's convention with Russia. They maintained that the British doctrine was already as explicit, upon this point, as any definition could make it; that it was difficult, if not impracticable, to agree upon one which should be at the same time accurate and complete; that the clause in its present form would do much towards the accomplishment of our object, and that what remained, it would be in their power, as it certainly was in their inclination, to supply, as effectually, as in the treaty itself, by taking occasion to state, in a letter, which it was intended should be delivered to us on their part, at the time of the signature of the treaty, in which you will hereafter find explained, the theory and practice of the British government on this subject.

This reasoning was in no degree satisfactory, and it was resisted accordingly, but without effect. The proposed substitute for a definition by treaty, might be of some value, and was not therefore opposed; but it was obvious, that it would be greatly impaired, if not wholly destroyed, by the nature of the letter, of which we had received a full explanation, and in which the suggested statement was to be inserted.

The eleventh article regulates the great question of our commerce with enemies colonies, the interruption of which was one of the principal causes of the late disagreement between the two countries. We trust that the compromise which has been made on this point will be advantageous to our commercial interest and satisfactory to our government. The British commissioners were very desirous of burthening this intercourse with several severe restrictions, to place as they did not hesitate to state, their own merchants on an equal footing, in the great markets of the continent, with those of the U. S. With that view, and to settle all questions concerning the continuity of the voyage, they proposed that all articles of W. India produce should be stored in the U. S. for the term of one month, to be transported thence to Europe in another ship from that in which they were brought, and be likewise subjected to a duty of at least four per cent. on re-exportation. They finally agreed however to relinquish all these pretensions, except the landing of the goods in the U. States, and the payment [by which is understood the securing of the payment in the mode prescribed by our law] of one per ct. on such European articles as may be carried from thence to the colonies, and of two per cent. on such West India productions as may be carried to Europe including the parent and every other country. We are persuaded that this arrangement will be attended with less inconvenience to the parties than the other restrictions above mentioned or either of them. The storing of the goods especially for a month seemed to be peculiarly objectionable, as it would have subjected us to a serious injury without being attended with any circumstance to alleviate the regret inseparable from it. We flatter ourselves that the sum agreed to be paid will not be felt as a heavy one on our merchants, whose patriotism will be gratified by the recollection that the duty which they pay will redound to the advantage of their country. By the compromise which is made, the practical enjoyment of the rights of each party is forborne, in the manner stated and for the term specified, while the rights themselves are reserved. The stipulation being in the form of a concession on the part of G. Britain is intended to mitigate her principle where it applies, but in no respect to enlarge the sphere of its operation. No judicial decision of the court of admiralty in this country, has hitherto extended the British principle to enemies colonies in the East Indies, and it is understood that it does not apply to the greater part, if to any of them. Some cases are depending before it from the vice admiralty courts of Halifax, and Columbo, which will bring the point into question. Should the opinion of the court be, that the principle is applicable to the colony to which the cause relates, then the party will have the advantage of the provision contained in this article; should it on the contrary decide that it does not apply to such colony, then the trade between it and the parent country will be free. This view of the subject was entertained equally by the British commissioners and ourselves, and is that, as they assure us, which the court of admiralty will adopt in its decisions. We endeavored to exempt this branch of the trade with enemies colonies from the operation of the British principle, but that was found to be impracticable. We flatter ourselves that the arrangement made respecting it will be deemed the next most eligible one, that could have been adopted, and that it will produce in practice, in a great measure, if not altogether the same effect.

The twelfth article establishes the maritime jurisdiction of the U. S. to the distance of five marine miles from their coast in favor of their own vessels, and the unarmed vessels of all other powers who may acknowledge the same limit. This government contended that three marine miles was the greatest extent, to which the pretension could be carried