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For the NATIONAL INTELLIGENCER.

TO THE PEOPLE,

THE DEFENCE.

No. XVIII.

(Subject of Foreign Relations, Continued.)

On the existence of these sentiments, as a foundation, the great negociation respecting the navigation of the Mississippi commenced.

This object had ever been foremost in the thoughts of the President; it may not be incorrect to suppose that its vast political importance no less justified it to his judgment, than his affection for the people of Kentucky, principally taken from the bosom of his native state, recommended it to his heart. It is certain that it determined the designation of Mr. Pinckney as minister to Madrid. The strenuous exertions of this citizen in the old congress, in promoting the free navigation of the Mississippi, were, not forgotten. It has been said that it was eminently owing to them that the occlusion of the river for a long period was frustrated. What was done at Madrid does not distinctly appear. That a negociation was commenced at an early period is certain; and that this negociation rendered the minds of that cabinet and that of France familiar with the subject is extremely probable.—— About this period, the king of Spain ceded Louisiana to France, under a *secret treaty.* This circumstance attending the cession has been variously interpreted; and in the period of alarm has been construed as evidence of an intention on the part of the French government to disturb the peace of the United States through the means of Spain, who still retained possession of the country.— But neither facts nor considerations of policy favour the existence of such a motive. Abundant reason for secrecy is found in the inability of France to preserve the colony from British seizure;— and hence it was wisely determined by France not to declare it hers until the peace with England should be better consolidated, or the French marine re-established.

In this state of things on the 17th of October, 1802, the right of deposit at New-Orleans was suspended by the Spanish Intendant.

Two alternatives were presented to us; war, or negociation. For on one point there was no difference of opinion.—— The government and the nation were equally impressed with the necessity of measures for restoring our violated rights.

The administration clearly perceived the path of duty, and instantly pursued it. The suspension of the right of deposit occurred during the recess of the legislature. The constitution, in the distribution of the powers conferred upon the various departments of the government, gives to Congress exclusively the right of declaring war, while it devolves on the President the duty of executing the laws. There are certain acts of one nation towards another that necessarily constitute a state of war between them; but it is not pretended that the suspension of the right of deposit was of the number. Notwithstanding, therefore, that act, the pre-existing state of peace continued. An event may be said to have occurred leading to a state of war; but that essentially differs from war; one is the cause, and the other an effect, which may, or may not occur, and no reasonable mind ever thought of confounding things so essentially different.

It was the duty of the Executive to prese v peace, which always exists when there is no war actually declared or waged. This conclusion is sustained by high federal authority, whose orthodoxy will not be disputed. Mr. Hamilton, in defending the proclamation of neutrality, expressly says, "If the legislature have a right to make war on the one hand, *it is, on the other, the duty of the Executive to preserve peace till war* is declared." Again, in the same defence, we find this principle laid down— "*While*, therefore, *the legislature can alone declare war*, can alone transform the nation from a state of peace to a state of war, *it belongs to the Executive power to do whatever else the law of nations, co-operating with the treaties of the country, enjoin in the intercourse of the United States with foreign powers.* In this distribution of powers, the wisdom of our constitution is manifested. It is the province and duty of the Executive to preserve to the nation the blessings of peace. The legislature alone can interrupt those blessings, by placing the nation in a state of war."

Peace is and always has been the predominant desire of the American people; and so solicitous is the constitution to guard it, and so fearful of its being hazarded by the ambition or mistaken policy of any one man, that while it gives to Congress exclusively the power of declaring war, it likewise vests them exclusively with all those powers without which war could not be carried on.— To them alone is confided the powers—

To raise and support armies, with the prohibition to appropriate money for that purpose for more than two years—

To lay and collect taxes, and borrow money, without which armies could not be maintained—

To provide for calling forth the militia—for what?—for the sole purposes of executing the laws of the union, suppressing insurrections and repelling invasions—

And for all these ends, no money can be drawn from the treasury, but on appropriation made by law.

Well then may we affirm, that no President, without a shameful and criminal violation of his oath "to preserve, protect, and defend the constitution," would have dared to usurp the legislative power, and have carried the nation into a state of war. The salutary terrors of an impeachment would have been dead had they not hurled the usurper from his throne.

But he had other duties arising from the obligation "to take care that the laws be faithfully executed." In the language of Mr. Hamilton, it was his duty to do what "the law of nations, co-operating with the treaties of the country, enjoin in the intercourse of the United States with foreign powers." What were the constitutional means reposed in him for the accomplishment of these ends? None other than negociation;—And this was instantly resorted to.

So far then the conduct of the executive is as clear as day light, as straight as a sun-beam. What he did, the constitution required; that from which he abstained, it prohibited.

At the ensuing session of Congress it devolved on them as the constitutional organ of the government to decide on such measures as were required by the crisis of affairs. The conduct of the Spanish intendant had in the mean time become the subject of explanation between the executive and the agents of the Spanish and French governments; and although there was undoubtedly no adquate motive apparent for his conduct, the strongest assurances were received from the Spanish minister and the French Charge des Affairs that it was altogether unauthorised by either the government of Spain or France.

Under these circumstances, and during the pendency of a negociation, the federal side of Congress made a vehement attempt to produce a state of war between the United States and Spain, with the prospect of extending it to France. They declared that the dignity of the government and the interests of the people demanded a resort to force; that this would give us immediate possession of our violated rights; that it would be the only effectual mean of their restoration. It was affirmed that the measure was the act of France, whose purpose was to embroil the United States, and who would pursue her purpose with a will as inexorable as fate; that the First Consul had fixed his eyes on Louisiana as the happy theatre of a new career of conquest; and that once possessed of it, he would apply it as a lever to dest y the government, the liberty and the independence of the United States. Hence it was affirmed, that it became our duty to be before hand with him; and instantly to seize New-Orleans, and plant a strong army there for its defence. Louisiana was painted as a paradise; and its fertile soil, and commanding position in relation to the West Indies and the Spanish settlements, were held forth as allurements to national cupiditity. It was said that nature having decreed to make it ours, it became not a feeble and pusillanimous administration impotently to attempt to over-rule her fiat; that the spirit of our countrymen would possess it, and that a wise policy ought to seize the present as the auspicious moment for gaining it. Its possession would shew the world, that America would not suffer her rights to be violated with impunity; and once possessed it would inure peace with European nations for many years! All this was said, not in the cool style of a dispassionate mind, but decked out with all the fervid eloquence of overwhelming passion.

But the friends of the administration stood on the rock of justice—With the Roman sage, they might exclaim, *fiat justitia ruit coelum!* They too cordially abhorred the preference of policy to right to listen for a moment to the meretricious allurements of iniquity.— Their political creed had not taught them the policy of injustice as the best instrument of interest. They were not unmindful of the parting advice of an eminently good man.*

"Observe, says he, good faith and justice to all nations, cultivate peace and harmony with all; religion and morality enjoin this conduct; and can it be that good policy does not enjoin it? It will be worthy of a free, enlightened, and at no distant period, a great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence."

To the honour of a great majority of the representatives of the American people, to the honour of that people themselves, they threw from them with detestation the profligate advice that offered wealth and empire in exchange for justice.

CURTIUS.

* *Washington.*

(Subject of Foreign relations to be continued.)

FROM THE ENQUIRER.

Messrs. Ritchie & Worsley.

A FEW months past, Mr. Jefferson was charged by the federalists, with having drafted and signed an adulatory petition to the king of Great Britain, in the year 1775. I then defended him in your paper against the accusation, and promised to furnish a specimen of the political sentiments of that eminently enlightened statesman in 1774. To that period I call the attention of the American reader, for the surest test of *principle;* when the *mother country* with the lifted arm of power threatened, and with probable certainty, to strike us at a blow from existence, or into eternal bondage and misery. It was then that the pamphlet which I now send you was written. Mr. Jefferson had left home for Williamsburg, where the convention of which he was a member, were in session. He was taken ill upon the way, and forwarded this pamphlet, which completely exercised his opinions, to Peyton Randolph, Moderator. By him it was submitted to the consideration of the members of the convention, and by them, with what propriety it is needless for me to say, was deemed *a head of the sentiments of the times.* Some of the members of that body thought however, that its publication might be useful; and as the preface will show, had it printed without consulting Mr. Jefferson. If the title, motto, and preface claim our approbation, it is due to the publishers, who affixed them to the pamphlet. In England, this production attracted much of the popular attention. A clergyman who was there when it arrived, declared that it ran through many editions.

The address to the king of England which was sent from Congress in 1775, was drafted by Mr. Dickenson. It was reported, as the Journal of Congress will prove, several days before Mr. Jefferson took his seat there. It met with almost universal opposition; and finally worked its way through Congress, merely because those who advocated it declared, that if the king should not answer it satisfactorily, they would then go all lengths with the *whigs.* To produce this unanimity it was permitted to pass, and was unanimously signed; because the fastidious spirit of the *king*, would not receive a paper from the *president* of Congress. I believe since that memorable day he has been more polite: I fancy he has now and then *exchanged civilities.*

Perhaps the repeal of the *sedition act* was for Mr. Jefferson, one of the most fortunate of the *retrogade movements* of the former administration. The *licentiousness* of the federal presses, has produced a developement of his character, which as it unfolds, only exhibits *more wisdom, more virtue, and more patriotism.*

A SUMMARY VIEW OF THE *RIGHTS OF BRITISH AMERICA.*

Set forth in some Resolutions intended for the inspection of the present Delegates of the people of Virginia now in Convention.

By THOMAS JEFFERSON.

Est proprium munus magistratus intelligere, se gerere personam civitatis, debereque: ejus dignitatem & decus sustinere, servare leges, jura discribere, ea fidei suae commissa meminisse.

Cicero de Of. L. 1, C. 34.

It is the indispensable duty of the supreme magistate to consider himself as acting for the whole community, and obliged to support its dignity, and assign to the people, with justice, their various rights, as he would be faithful to the great trust reposed in him.

The Preface of the Editors.

The following piece was intended to convey to the late meeting of Delegates the sentiments of one of their body, whose personal attendance was prevented by an accidental illness. In it the sources of our present unhappy differences are traced with such faithful accuracy, and the opinions entertained by every free American, expressed with such a manly firmness, that it must be pleasing to the present, and may be useful to future ages.

It will evince to the world the moderation of our late convention, who have only touched with tenderness many of the claims insisted on in this pamphlet, though every heart acknowledged their justice.

Without the knowledge of the author, we have ventured to communicate his sentiments to the public, who have certainly a right to know what the best and wisest of their members have thought on a subject in which they are so deeply interested.

RESOLVED, That it be an instruction to the said deputies, when assembled in general congress with the deputies from the other states of British America, to propose to the said congress that an humble and dutiful address be presented to his majesty, begging leave to lay before him, as chief magistrate of the British empire, the united complaints of his majesty's subjects in America; complaints which are excited by many unwarrantable encroachments and usurpations, attempted to be made by the legislature of one part of the empire, upon those rights which God and the laws have given equally and independently to all.

To represent to his majesty that these his states have often individually made humble application to his imperial throne to obtain, through its intervention, some redress of their injured rights, to none of which was ever even an answer condescended; humbly to hope that this their joint address, penned in the language of truth, and divested of those expressions of servility which would persuade his majesty that we are asking favours, and not rights, shall obtain from his majesty a more respectful acceptance. And this his majesty will think we have reason to expect when he reflects that he is no more than the chief officer of the people, appointed by the laws, and circumscribed with definite powers, to assist in working the great machine of government, erected for their use, and consequently subject to their superintendance. And in order that these our rights, as well as the invasions of them, may be laid more fully before his majesty, to take a view of them from the origin and first settlement of these countries.

To remind him that our ancestors, before their emigration to America, were the free inhabitants of the British dominions in Europe, and possessed a right which nature has given to all men, of departing from the country in which chance, not choice, has placed them, of going in quest of new habitations, and of there establishing new societies, under such laws and regulations as to them shall seem most likely to promote public happiness. That their Saxon ancestors had, under this universal law, in like manner left their native wilds and woods in the north of Europe, had possessed themselves of the island of Britain, then less charged with inhabitants, and had established there that system of laws which has so long been the glory and protection of that country. Nor was ever any claim of superiority or dependence asserted over them by that mother country from which they had migrated; and were such a claim made, it is believed that his majesty's subjects in Great Britain have too firm a feeling of the rights derived to them from their ancestors, to bow down the sovereignty of their state before such visionary pretensions. And it is thought that no circumstance has occurred to distinguish materially the British from the Saxon emigration. America was conquered, and her settlements made, and firmly established, at the expence of individuals, and not of the British public. Their own blood was spilt in acquiring lands for their settlement, their own fortunes expended in making that settlement effectual: for themselves they fought, for themselves they conquered, and for themselves alone they have a right to hold.

No shilling was ever issued from the public treasures of his majesty, or his ancestors, for their assistance, till of very late times, after the colonies had become established on a firm and permanent footing. That then, indeed, having become valuable to Great Britain for commercial purposes, his parliament was pleased to lend them assistance against the enemy, who would fain have drawn to herself the benefits of their commerce, to the great aggrandizement of herself, and danger of Great Britain.— Such assistance, and in such circumstances, they had often before given to other allied states, with whom they carry on a commercial intercourse; yet these states never supposed, that by calling in her aid, they thereby submitted themselves to her sovereignty. Had such terms been proposed, they would have rejected them with disdain, and trusted for better to the moderation of their enemies, or to a vigorous exertion of their own force. We do not, however, mean to under-rate those aids, which to us were doubtless valuable, on whatever principles granted; but we would shew that they cannot give a title to that authority which the British Parliament would arrogate over us, and that they may amply be repaid by our giving to the inhabitants of Great Britain such exclusive privileges in trade as may be advantageous to them, and at the same time not too restrictive to ourselves. That settlements having been thus effected in the wilds of America, the emigrants thought proper to adopt that system of laws under which they had hitherto lived in the mother country, and to continue their union with her by submitting themselves to the same common sovereign, who was thereby made the central link connecting the several parts of the empire thus newly multiplied.

But that not long were they permitted, however far they thought themselves removed from the hand of oppression, to hold undisturbed the rights thus acquired, at the hazard of their lives, and loss of their fortunes. A family of princes was then on the British throne, whose treasonable crimes against their people brought on them afterwards the exertion of those sacred and sovereign rights of punishment reserved in the hands of the people for cases of extreme necessity, and judged by the constitution unsafe to be delegated to any other judicature. While every day brought forth some new and unjustifiable exertion of power over their subjects on that side the water, it was not to be expected that those here, much less able at that time to oppose the designs of despotism, should be exempted from injury.

Accordingly that country, which had been acquired by the lives, the labors, and the fortunes, of individual adventurers, was by these princes, at several times, parcelled out and distributed among the favorites and (*) followers of their fortunes, and, by an assumed right of the crown alone, was erected into distinct and independent governments; a measure which it is believed his majesty's prudence and understanding would prevent him from imitating at this day, as no exercise of such a power, of dividing and dismembering a country, has ever occurred in his majesty's realm of England, though now of very ancient standing; nor could it be justified or acquiesced under there, or in any other part of his majesty's empire.

That the exercise of a free trade with all parts of the world, possessed by the American colonists, as of natural right, and which no law of their own had taken away or abridged, was next the object of unjust encroachment. Some of the colonies having thought proper to continue the administration of their government in the name and under the authority of his majesty king Charles the First, whom notwithstanding his late deposition by the commonwealth of England, they continued in the sovereignty of their state; the Parliament for the commonwealth took the same in high offence, and assumed upon themselves the power of prohibiting their trade with all other parts of the world, except the island of Great Britain. This arbitrary act, however, they soon recalled, and by solemn treaty, entered into on the 12th day of March, 1651, between the said commonwealth by their commissioners, and the colony of Virginia by their