will be found to hold different opinions, and will be in favor of proceeding, without delay, in a business so interesting to the public welfare.

MR. D. R. WILLIAMS. As far as I, a fallible man, can understand the infallible ideas of the gentleman from Virginia (Mr. Dawson) I must disclaim the motives he ascribes to the friends of these resolutions, and declare my total ignorance of any gentleman being influenced by them. Surely that hon. gentleman is not so devoid of charity, as to wish me to vote blindfolded on a subject which he allows to be highly important. What is the verbal communications of the secretary of war to me? They may have been satisfactory to the committee who heard them; but they surely cannot enlighten those who are altogether unacquainted with them. I hope we shall not proceed with a degree of precipitation that will oblige us to act blindfold.

MR. EARLY. The gentleman from Virginia has told us that the very information we now call for, as far as it applies to the first resolution, was verbally given by the secretary of war to the select committee. The gentleman from Virginia could not have offered a more forcible argument for adopting the resolution. What! Is this House to decide on the private information of a head of department, given to a committee, when that information too is verbal? Is this the way in which the funds of the nation are to be pledged to an incalculable extent, in the furtherance of measures whose success is at best problematical? I presume not. Before they are adopted, we ought to be possessed of official documents; and if, after we have acted on the information we have received, we shall find it incorrect, we shall know whom to blame, and on whom to fix the responsibility. But would that be the case, when information was verbally given by a head of department to a committee and verbally delivered by that committee to the House? Surely not. Was it ever heard of, that the House should act in a measure of such magnitude on the verbal communications of the head of a department, verbally delivered to the House?

MR. DAWSON said, the gentleman was mistaken in point of fact. He had not said a word against the resolution.

MR. EARLY begged pardon for his mistake. He had, however, always understood a gentleman to be opposed to a motion when he spoke against it.

After amending the resolution, by adding after the words, *within the United States*, "the territories thereof," it was agreed to—Ayes 88—when the second resolution, was also agreed to—Ayes 81, after inserting in lieu of *frigates*, "armed ships or other vessels built or purchased on account of the U. States," and adding to the resolution, "and also the amount of monies that has been expended on each navy yard."

MR. ELLIOT. I am very happy at the prospect of attaining the information called for in the resolution of the gentleman from Georgia, and I hope, before we have a final decision on the report of the select committee, we shall obtain some further information. Annexed to the report of the committee, I find the estimate of the secretary of the navy, of the expence of building a 74, and keeping her in service, and an estimate of the like kind relative to gun boats. This information is very valuable, as far as it goes. I do not perfectly agree with the gentleman from Georgia, as to the intrinsic value of a navy estimate. But I believe we ought to go on more solid ground than a navy estimate; and when our selection is to be made from various plans of defence, it is proper to obtain an estimate of the relative expence of each. It may, possibly, be the intention of a majority of this House, to vote several millions for the building of 74's—while they are disposed to suffer our present naval armament to remain idle. This may be the views of a majority of this House, but I am not yet convinced that it is. There appears to me to be a chasm in the details called for, to fill which I move the following resolution.

Resolved, That the Secretary of the navy be directed to lay before this House, estimates of the expence of repairing, and of the annual expence of manning, and of supporting in actual service the whole of the frigates and smaller vessels of war belonging to the U. States.

This resolution was agreed to without a division.

MR. DAWSON said, that believing the information called for in the resolution just agreed to, could not be had, without the previous lapse of a long time, and considering the state of the country, he held it his duty to move that the House should again resolve itself into a committee of the whole on the state of the union.

This motion having prevailed—Ayes 60—MR. GREGG took the chair.

The chairman stated, that when the committee before rose, the resolution under consideration was for appropriating 150,000 dollars for the better protection of our ports and harbors.

MR. THOMAS renewed the motion to strike out this sum, in order to leave it blank.

MR. CONRAD said he was at a loss to know how to act in this business. A few minutes ago we agreed to a call for information, and now we are required to give a vote in the dark. It was impossible for him, under these circumstances, to act understandingly on the subject. He must, therefore, move that the committee rise.

MR. SMILIE hoped that the committee would rise, and that the business would be postponed for some time. He thought, from the beginning of this business they had been proceeding incorrectly; that they should be going on in measures of protection, before they determined on the propriety of resorting to warlike measures, appeared to him to be beginning with the wrong end of the business. If they determined on peaceable measures, there would be no necessity for gun boats, or the defending our ports and harbors. If, on the contrary, measures of war were adopted, or such measures as would lead to war, there might be this necessity.

I do not, said Mr. S. certainly know, but as far as I have conversed with the members of this House, there is not a disposition to go to war. Why, then, pursue war measures? I hope the House will not be of opinion, that war is necessary; and if so, what reason is there at present for adopting warlike measures? Why go into details, whose fitness must depend on higher measures? When I say this, I assure the gentleman, if it shall be necessary to take measures of war, or measures leading to it, I shall be willing to adopt effectual measures. One thing is certain. That if we take such measures, we must go much further than the report of the select committee. Before this great question is decided, the determination of all subordinate matters will be useless. I therefore think it best that the committee should rise, and that the subject now under consideration should be laid asleep for some time.

The question being taken, the committee agreed to rise—Ayes 52—Noes 55—

When the chairman reported, that the committee of the whole House had had the state of the union under consideration, and had come to no resolution thereon.

Further extracts from An examination of the BRITISH DOCTRINE, *which subjects to capture a neutral trade not open in time of peace.*

TREATIES.

All writers on the law of nations, as well didactic as polemic, avail themselves, whenever they can, of the authority of Treaties.

Treaties may be considered under several relations to the law of nations, according to the several questions to be decided by them.

They may be considered as simply repeating or affirming the general law: they may be considered as making exceptions to the general law, which are to be a particular law between the parties themselves: they may be considered as explanatory of the law of nations, on points where its meaning is otherwise obscure or unsettled; in which case they are, first, a law between the parties themselves, and next, a sanction to the general law, according to the reasonableness of the explanation, and the number and character of the parties to it: lastly, Treaties may be considered as constituting a voluntary or positive law of nations.

Whether the stipulations in a treaty are to be considered as an affirmance or an exception, or an explanation, may sometimes appear on the face of the treaty: sometimes being naked stipulations, their character must be determined by resorting to other evidences of the law of nations. In other words, the question concerning the treaty must be decided by the law, not the question concerning the law by the treaty.

In the present case, it has been shewn, from the sources generally allowed to be the most authentic, that the law of nations is violated by the principle asserted by Great Britain. It is a just inference, therefore, that every article in treaties contradicting that principle, is an affirmance and direct proof of the general law; and that any stipulation of the principle would, as an exception to the general law, be an indirect proof of it.

But supposing for a moment, the present case to belong to that class, in which the great oracles of the law of nations are obscure, or at variance among themselves, and in which, moreover, the practice of nations, not being uniform, is an unsatisfactory guide; and consequently, that the evidence of treaties were necessary in order to ascertain the law; still it will be found that the result of an appeal to that evidence is conclusive against the British pretension. It may be confidently affirmed, that on no point ever drawn into question, the evidence of Treaties was more uniform, more extensive, or more satisfactory.

Nay more; it may be affirmed that the treaties applicable to this case may fairly be considered in their relation to the law of nations last noticed; that is, as *constituting* a law of themselves. If, in any case, Treaties can be sufficiently general, sufficiently uniform, and of sufficient duration, to attest that general and settled concurrence of nations in a principle or rule of conduct among themselves, which amounts to the establishment of a general law; such an effect cannot reasonably be refused to the number and character of the treaties which are applicable to the present case.

That Treaties may amount to a law of nations, follows from the very definition of that law; which consists of those rules of conduct which reason deduces, as consonant to justice and common good, from the nature of the society existing among independent nations; with such definitions and modifications as may be established by general consent.

One evidence of general consent is general usage, which *implies* general consent.

Can treaties which *express* consent be an inferior evidence, where nothing on the face of the treaties, nor in any collateral authority on the law of nations is found to impair the evidence?

Treaties may indeed in one point of view be considered as a higher authority than usage, when they have a generality and continuance which give to usage the authority of law; because all treaties involve a usage commensurate with the sphere in which they are obligatory. Whilst usage, therefore, implies consent; treaties imply the usage, at the same time that they express the consent of the parties to them.

But there is another point of view in which the influence of treaties, those at least of peace and of commerce, in modifying and defining the rules of public law applicable to periods of war, ought in preference to the influence of mere practice, to be promoted by all governments which respect justice and humanity, and by all jurists who aspire to the authority of commentators on that subject.

The law of nations, as derived from mere usage or practice during those periods, is evidenced for the most part by *ex parte* ordinances, issued by belligerent governments in the midst of the passions or policy of war; and by judicial decisions, also *ex parte*, and biassed more or less by the same causes, if not by the interest also, which weighty individuals, or perhaps bodies of individuals have, in widening the field of predatory wealth.

Treaties are formed under very different circumstances. Those of peace imply that the hostile passions and pursuits have spent their force, and that a mutual spirit of liberality and accommodation have taken their place: Treaties of commerce again are necessarily founded in principles of reciprocal justice and interest, wholly at variance with the violent spirit of war: whilst in the negociation of treaties of both kinds the respective efforts and interests of the parties form those mutual checks, require those mutual concessions, and involve those mutual appeals to a moral standard of right, which are most likely to make both parties converge to a just and reasonable conclusion. Nor is a sense of character without its effect on such occasions. Nations would not stipulate in the face of the world things, which each of them would separately do, in pursuit of its selfish objects.

It will accordingly be found, as might be expected, that the violent and cruel maxims of war, those still remaining, as well as those from time to time exploded, have had their origin and their continuance in the *separate* usages of belligerent nations, not in treaties; whilst on the other hand, it will be found that the reformation of those abuses has been the gradual work of treaties; that the spirit of treaties is, with few if any exceptions, at all times more just, more rational and more benevolent, than the spirit of the law derived from practice only; and consequently, that all further meliorations of the code of public law, are to be expected from the former, not the latter source; and consequently, again, that all enlightened friends to the happiness of nations ought to favor the influence of treaties on the great code by which their intercourse is to be regulated.

The authority of every treaty is to be considered as opposed to the principle asserted by Great Britain, where it either stipulates a general freedom of neutral commerce with a specification of exceptions to it, and an omission of this British exception; or where it stipulates not only a neutral right generally to a *free trade* with belligerent nations, but particularly a right to trade freely *to and between the ports* of such nations. These stipulations, by the force of the terms, necessarily comprehend the coasting and colonial trades, as well as other branches of commerce.

It would be a waste of time to bestow it on the treaties of a remote period, partaking too little of the civilization and spirit of more modern times, to edify them by its examples. It will be sufficient to commence this review with the treaty of Westphalia in 1648, which forms an important epoch in the commercial and political history of Europe, and to remark as the result of some enquiry into antecedent treaties, that they contain nothing which can give the least countenance to the principle under examination.

It will be sufficient also to limit the review of treaties, where Great Britain was not a party, to those of most importance, either for the tenor of the stipulations, or for the particular parties to them, with marginal references to others of analogous import; remarking again generally, that these others are all, either negatively or positively, authorities against Great Britain

As a more convenient distribution also, the first review will stop with the epoch of the armed neutrality. The relation, which the treaties subsequent to that event have to the subject, will be noticed by itself.

Examples to which Great Britain is not a party.

By a treaty concerning navigation and commerce in 1650, preceded by a particular article on the same subject concluded in 1648, it is stipulated between the United Provinces and Spain, "that the subjects and inhabitants of the United Provinces (& those of Spain reciprocally) may sail and trade with *all freedom* and safety *in all* the kingdoms, states and countries which are or shall be in peace, amity, or neutrality with the state of the said United Provinces; and that they shall not be disquieted or molested in this liberty by the ships or subjects of the king of Spain, upon *the account of hostilities* which may exist, or may happen afterwards, between the said king of Spain and the aforesaid kingdoms, countries and states, or any of them that may be in amity or neutrality with the said lords the states as above."

This liberty, in relation to France, was to extend to all sorts of merchandise which might be carried thither before she was at war with Spain; *even contraband of war*, not proceeding from the states of Spain herself, and capable of being used against the Spanish dominions.

With respect to other countries at peace with the United Provinces, & at war with Spain, the enumerated articles of contraband were not to be carried to them by the United Provinces, but all articles not contraband were to be freely carried, with the exception only of cities and places invested or blockaded.

The Pyrenean treaty, between France and Spain in 1659, established so close a friendship between the two nations, that they were mutually restrained from giving either of them to those attacking the other, any assistance in men, money, or victuals, or with passage through his dominions. Yet it is stipulated in art. X—XVI. which are reciprocal, that the French shall have liberty to trade *to all parts whatsoever*, though they should be in a war with his Catholic Majesty, excepting Portugal, whilst it continued in the condition it then was in; all merchandise may be transported to other countries in war with Spain, as was allowed *before the said war*, excepting such as proceed from the Spanish dominions, and as may be serviceable against the Catholic King or his dominions, and contraband goods. By contraband goods are understood all sorts of arms and warlike stores; but corn and all manner of provision and goods, not being arms and warlike stores, are not reputed contraband, and they may be carried to places in war with Spain, excepting to Portugal and blockaded places. The French vessels, passing from the ports of Spain to any port in enmity with that crown, shall not be in any way retarded or molested, after producing their passes, specifying their lading.

It here appears, that the parties were at liberty, when neutral, to trade to all parts of a belligerent country, not blockaded, and in all merchandises not contraband.

The expression "as was allowed before the said war," in this and in the preceding examples, clearly fall within the observations made on the like expressions, used by the writers on the law of nations. They are merely a mode of describing the indefinite right to trade, as if no war had arisen, and consequently to enter into any new channels of trade which might be opened to them.

In a treaty in 1662, between France and the United Provinces, it is stipulated, art. XXVI—XXVII. &c. that the parties reciprocally are to trade and navigate with all freedom and safety to countries respectively at war with one and at peace with the other, without any exceptions made by the treaty, other than a trade in contraband, or to a place blockaded.

The treaty between France and the United Provinces, art. XXVII—XXIX, as incorporated with the treaty of Breda in 1667, between the latter power and England, declares that the subjects of either party may sail and traffic in *all countries* at *any time*, in peace with one and at war with the other, and this transportation and traffic shall extend to *all articles* not contraband, and to *all places* not blockaded.

In a treaty in 1672, between France and Sweden, art. XXIII—XXIX, are of corresponding import.

A treaty in 1675, between Sweden and the United Provinces, contains like stipulations in the three first and following articles.

A declaration made in 1676, by Spain & the United Provinces, confirming the treaty of 1650, stipulates the right of either party to trade with the enemy of the other, as well directly as between enemy's ports, whether the ports belong to the same or different enemies, contraband goods and places blockaded being excepted.

In art. XIII. &c. of another treaty in 1678, between France and the United Provinces, the same points are again stipulated.

The XIII. art. of another treaty in 1679, between Sweden and the United Provinces, contains a like stipulation.

So again the like stipulation is contained in Art. xiii. of another treaty in 1679, between France and the United Provinces.

In a treaty in 1701, between Denmark and the United Provinces, the stipulations import an uninterrupted commerce of the neutral with an enemy of the other party, with the usual exception of contraband.

The like stipulation is found in a treaty of 1716, Art. viii. between France and the Hanse towns.

A treaty, Art. vi. between the emperor Charles VI. and Philip V. of Spain, May 1, 1725, is of like import.

The same is the language of a treaty in 1752, between Naples and Holland.

A treaty, Art. xvi. in 1767, between France and Hamburg, and another between France and the duke of Mecklenburg in 1779, maintain the same doctrine.

To these authorities derived from the conventional law of Europe, against the British principle under investigation, might be added, if it were necessary, references to other treaties of the like tenor.

Treaties to which England first, and then Great Britain, was a party.

By a treaty with Sweden in 1654, and another in 1656, confirming and explaining the former, it is stipulated, ART. II—IV, that it shall be lawful for the subjects of either of the confederates to trade with the enemies of the other; and, without impeachment, to carry to them, except to places blockaded or besieged, any goods whatsoever not contraband, of which a specification is inserted. Provision is also made for the efficacy of passports in certain cases, and against the abuse of them for covering enemies' property.

The weight of these examples is not diminished by the name of Cromwell, under whose authority the treaties were concluded in behalf of England. In foreign transactions, as well as at home, his character was distinguished by a vigor not likely to relinquish or impair rights, in which his country, as a warlike and maritime power, was interested.

On the other hand, it adds weight to the examples, that they are treaties of *alliance*, containing mutual engagements of friendship and assistance; and consequently, the less apt to indulge the parties in an intercourse with the enemies of each other, beyond the degree required by the law of nations. This observation is applicable to all the succeeding examples, where the treaties are of the same kind.

On the restoration of Charles II. a treaty of *alliance* was concluded with Sweden in 1661, the XI. art. of which, in pursuance of those above copied from treaties of 1654 and 1656, stipulates anew, that neither party shall be impeded in carrying to the enemies of the other, any merchandise whatever, with the exceptions only of articles of contraband, and of ports or places besieged.

In a treaty with Spain, May 13, 1667, the articles XXI—XXVI. import, that the subjects of each shall trade freely in all kingdoms, estates, and countries at war with the other, in all merchandises not contraband; with no other exception of places but those besieged or blockaded.

(TO BE CONTINUED.)

On the 17th of Jan. CALEB STRONG, *Governor of Massachusetts, delivered a speech to the legislature, of which the following embraces the most important features.*

But changes in the constitution of the government are more injurious than in the system of laws; even a small innovation may destroy its principles. The framers of the national constitution had before them, not only the forms which had been preferred by the several states, but those also which before that time had been devised in other ages and nations; and though the repeated experiments which have since taken place in Europe, may suggest matter for warning, they afford nothing for imitation. If notwithstanding, it is found by experience, that the constitution operates very unequally or the construction of any part is doubtful, amendments may be necessary to alter or explain it. But it is in vain to expect that all will be satisfied. Free governments admit of an endless variety of modifications, and the opinions entertained of their respective merits are equally various. When the constitution was established, perhaps no man that became subject to it, was perfectly pleased with every part. It was the result of mutual concession, and such indeed must always be the case, when a form of government is voluntarily accepted by a community.

Almost every nation, at some period of their existence, have enjoyed the privileges of a free state; but how few have preserved them!—they have been lost by the inconstancy of the citizens, or forfeited by their vices. In many republics, repeated variations in the modes of government have taken place, as different parties happened to predominate, until the people became weary of changes, and preferred the quiet of absolute power, to the tumults of perpetual revolution. In the minds of some men, there seems to be a restlessness, which renders them dissatisfied with any uniform course of things, and makes them eager in the pursuit of novelty; they abound in projects, and are ever meditating some fanciful change in the plan of government, which their imaginations represent as useful. But men of great ambition are still more dangerous; they commonly make the fairest pretences to principle, though they are actuated only by self-interest. If the constitution or laws of their country present obstacles to the accomplishment of their wishes, they employ every artifice to alter or abolish them; and if individuals oppose their attempts, they are equally artful and solicitous to destroy their influence, and render them odious to their fellow-citizens.

Few men, even in a prosperous community, are fully satisfied with their condition; a great part are easily induced to believe, that there is something wrong in the government or laws which may be rectified to their advantage; they therefore readily embrace any specious proposal to effect an alteration. The crafty and ambitious know how to avail themselves of this disposition to change, and encourage their followers to expect, that the amendments they propose will perfectly suit their case and produce the very blessings they wish; in this way, they not only effect their immediate object, but acquire an influence which enables them afterwards to accomplish the most destructive innovations. Such persons encourage hopes that can never be realised, and excite complaints which the most wise and benevolent administration is unable to remove.

Indeed, we are generally apt to ascribe too much to the efficacy of laws and government, as if they alone could secure the happiness of the people; but no laws will be sufficient to counteract the influence of manners which are corrupted by vice and voluptuousness; and it is beyond the power of any government, to render the circumstances of the citizens easy and prosperous, if they want the habits of industry and frugali-