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IN SENATE OF THE U. STATES

FEBRUARY 20, 1806.

Mr. ADAMS, from the committee to whom was referred, the bill, to prevent the abuse of the privileges and immunities enjoyed by foreign ministers within the United States; reported the same with the following

AMENDMENT.

SEC. 4. *And be it further enacted,* That whenever the President of the U. States, shall, under the authority of the laws of nations and of this act, send any foreign ambassador, minister, or other person as aforesaid, so offending, home to his sovereign, he shall issue his warrant to any officer, civil or military, under the authority of the U. States, commanding him to provide for the departure of the said ambassador, minister, or other person as aforesaid, so offending: taking due precautions to avoid all improper or unnecessary violence in executing said warrant. And all officers, civil and military, under the authority of the U. States, are required to be obedient to such warrant.

HOUSE OF REPRESENTATIVES.

REPORT.

The committee on public lands, to whom was referred a resolution of the 20th of January last, directing an enquiry into the expediency of providing by law for the legal adjudication of claims to land, set up by persons in virtue of purchases, or transfers from purchasers of the United States, previous to the emanation of grants under their authority,

REPORT:

That between original purchasers they have heard of but one instance of conflicting claims, nor do they believe it is probable that any others have, or will occur. Neither have they heard of more than one dispute between those claiming lands by virtue of transfers from purchasers under the U. S. but controversies of this description are not of a nature to exclude the probability that others may exist, of which, however, the committee have not been informed. No doubt they will become more frequent in future, in proportion as the number of persons, holding under purchases made of the U. S. become greater.

The committee, therefore, would deem the evil of sufficient importance to justify them in recommending some provision being made by law for granting relief against its operation, if such provision does not already exist. If parties to those controversies cannot before the emanation of grants, resort to courts of justice, and obtain from them an adjustment of their disputes, it must be ascribed either to the want of jurisdiction, to the want of a rule of decision, or to a want of a mode of proceeding, applicable to the nature of the rights which are contested.

Of controversies arising under the laws of the U. S. or between citizens of different states, the courts of the U. S. have as ample jurisdiction as it is in the power of congress to give them. Of controversies between citizens of the same state, and not arising under the laws of the U. S. the decision must be left to the state tribunals. There can never be a want of rules of decision, because the laws under which the right is claimed must always furnish the rules by which its validity will be determined, and no others can be substituted in their place.

As to the modes of proceeding in the courts of justice, the committee are impressed with an opinion, that they are not less applicable to controversies arising between parties before, than they are to controversies arising between parties after the emanation of the grants.

They can conceive of no right which will not be made effectual, and no wrong which will not have its remedy according to the mode of proceedings in courts of law and equity.

The committee, therefore, are induced to submit it as their opinion, that it would not be expedient to make any new or additional provision, by law, for the adjudication of claims, such as are stated in the resolution referred to them.

RESOLUTIONS

OF THE CITIZENS OF NORFOLK AND PORTSMOUTH, IN THE STATE OF VIRGINIA.

February 21, 1806. Read, and referred to the consideration of the whole House, on the state of the union.

At a meeting of the citizens of Norfolk and Portsmouth, assembled in consequence of the crisis to which the differences between this country and Great Britain have advanced, LUKE WHEELER, Esq. was called to the chair, and ARTHUR LEE appointed Secretary.

Resolved, unanimously, That a committee be appointed to draft resolutions, expressive of the sentiments of our citizens in relation to Great Britain, and that this committee consist of William Wirt, Littleton W. Tazewell, Robert B. Taylor, Moses Myers, William Pennock, Theodoric Armistead, and John Granberry, who, after a short retirement, reported the following resolutions, which were read and unanimously agreed to.

1. *Resolved,* as the opinion of this meeting, That the law of nations, founded on the eternal principles of equal and reciprocal justice, and on the consent of nations, cannot be abrogated or altered at the mere will and pleasure of any one nation.

2. *Resolved,* as the opinion of this meeting, That Great Britain, in the selection and adoption of her maritime regulations, appears to make but a single enquiry; and that is, whether those regulations be conducive to her own interest: totally regardless whether they incroach, or not, on the rights of other nations, equally sovereign and independent with herself.

3. *Resolved,* as the opinion of this meeting, That the interest of Great Britain, and the law of nations, are not convertible terms; and that a measure, although highly expedient for her, although calculated to produce the effect of a general blockade on the nation with which she is at war, although tending to constrain to her own ports the commerce of neutrals, and to give her a monopoly of the commerce of the world, may nevertheless be a direct and palpable breach of national law, and an invasion of the rights, the independence, and sovereignty of other nations.

4. *Resolved,* as the opinion of this meeting That of this description is that principle, generated in the British cabinet, which imposes a new restraint on the commerce of neutrals, which closes against them the ports of a belligerent, although such ports be avowedly free from blockade, although the neutral vessels contain no article of contraband, and although the nation, to which such ports belong, open them and invite the commerce of neutrals.

5. *Resolved,* That Great Britain, by impressing our citizens into her service, and compelling them to fight her battles, and to contribute to the capture and plunder of their own countrymen; by her various abuses of the laws of blockade; by the new principle which she hath prescribed as a part of the law of nations, and by which she effectually blockades the whole of every nation with which she is at war; by all these restraints and oppressions imposed and practised by her on the liberty of our citizens, the freedom of our commerce, and the sovereignty of our nation, hath given evidences of a hostile temper towards the United States, so strong, that, in the opinion of this meeting, it is expedient for our government to adopt such measures as, to their wisdom, may seem best calculated to assert and maintain our rights, and to redress the injuries we have sustained.

6. *Resolved,* That we have an unshaken confidence in the wisdom and firmness of our national councils; and that we will, with our lives and fortunes, support whatever measures they may take to maintain the honor and independence of our nation inviolate.

7. *Resolved,* That the chairman be structed to transmit the said resolutions to Thomas Newton, esq. our representative in Congress, to be by him laid before that body.

LUKE WHEELER, Chairman.

Test, *ARTHUR LEE,* Sec'ry.

Norfolk, 12th Feb. 1806.

NOTICE.

THE SUBSCRIBER HAS OPENED

A VENDUE STORE,

On the Pennsylvania avenue, in one of the frame buildings west of Mr. Herford's brewery, where he is now ready to receive goods, to the disposition of which every attention will be paid by him.

JOHN STEPHEN, Auctioneer.

Washington city, Feb. 23—3t

N. B. Commission business done with punctuality and dispatch. J. S Auct.

Will be sold at Public Sale on

Tuesday the 4th day of March, the SLOOP FRIENDS, now lying at the Hamburgh wharf, she is well calculated to carry wood, and will be sold without reserve, precisely at 3 o'clock P. M.

JOHN STEPHEN, Auctioneer,

Feb. 28—2t

I WILL RENT OR SELL,

THE property where I now live, if it is not rented or sold at private sale before the first Monday in May next, it will then be sold at at public sale, two lots in square 23, fronting on Water street, 78 feet 3 inches and runing back 181 1 2 feet, which are inclosed in a handsome paled in garden—the buildings are a convenient frame DWELLING HOUSE, Smoke House and Ice House. On the south side of Water street, is a wharf sufficiently large to hold 200 cords of wood at once, this part of the property runs to the Hamburgh channel, and the situation equal to any in the city for a Lumber, coal, or wood yard. The terms will be made easy to the purchaser, and a sufficient title given, by

JOHN STEPHEN.

Feb. 28—3t

MEMORIAL

OF THE MERCHANTS OF BOSTON.

To the PRESIDENT OF THE U. STATES, and the Senate and House of Representatives of the U. States of America, in Congress assembled.

The subscribers, a committee of the merchants of the town of Boston, duly empowered for the purpose, respectfully ask leave to address government on a subject highly interesting to the commerce and prosperity of the U. S. and involving in its results a great pecuniary property, acquired as they believe, by honest exertions in the prosecution of an open, fair, and authorised trade.

While your memorialists have witnessed, with mingled feelings of indignation towards the perpetrators, and of commiseration for their unfortunate countrymen, the insults and barbarities which the commerce of these states has sustained from the cruizers of France and Spain, it is their object in the present memorial, to confine their animadversions to the more alarming, because more numerous, and extensive detentions, and condemnations of American vessels by Great Britain, and to advert to the principles recently avowed, and adopted by her courts, relative to neutral trade in articles of colonial produce—Principles which, if admitted, or practised upon in all the latitude which may fairly be inferred to be intended, would be destructive of the navigation, and radically impair the most lucrative commerce of our country.

The law of nations, like all other laws not formed by express compact, must, to give it an obligatory force, be founded on the rule of right, and be construed to exist only from open declaration, or from a tacit acquiescence under its operation by the parties interested in it.

It is a law which can never be considered as absolutely permanent, for being established by common consent for the general good, it can only be supported so long as it produces the effect intended, and so various are the changes in the political world, from the relative situation of states at different epochs, & from the growth of new empires, that it may very possibly happen, that what promoted the public welfare at one time, and therefore became part of the law of nations, might, at another period, tend only to the aggrandisement of an individual nation, at the expense and to the depression and injury of many other nations.—In such case it is but reasonable to expect, that old principles, even if they had been once expressly admitted, would become absolute, or be newly modified and made to conform to a state of nations, widely different from that in which they originated—at any rate your memorialists presume it can never be justly contended, that principles of maritime law have been admitted by a nation during whose existence they had never been avowed nor acted upon, merely because such nation did not anticipate and combat pretensions which it never imagined would be seriously advocated—Principles that had been virtually abandoned subsequently to their first avowals, even during an intermediate and inveterate war, and during the prosecution of a trade which is now interdicted and alledged to be illegal, but which trade was at that time sanctioned by the promulgated decisions of her courts, and by an official communication from one of the highest organs of the very government which is now attempting to destroy it, and with its suppression to annihilate, or greatly diminish, the commerce of neutral nations.

From the decree of the Lords of Appeal in the case of the Essex—Orne—from the judgment of Sir Wm. Scott, in several other cases since that decree in direct contravention of his former decisions—from the multiplied arrestations and detentions of American vessels, of which every arrival furnishes a more extended list, there is great cause to apprehend, that the British government mean to set up as a principle, *that she has a right to interdict all commerce by neutrals to the ports of her enemies, which ports had not been opened previously to the commencement of hostilities—that if she permits a trade with them in any degree, she has a right to prescribe the limits of it—to investigate the intention of the parties prosecuting it, and if such intention be not the actual disposition of the property in the neutral country, to consider the merchandize even after the importation into such country, after having been landed therein, warehoused, and the duties paid on it, as only in the state of a continued and direct voyage from the colony to the mother country, or vice versa, and therefore illegal, and liable to condemnation.*

Speculating upon the apparent avowal of these principles, the vice admiralty judges of Great Britain, the officers of her ships of war and cruisers, seem to consider them as the signal for harrassing and arresting neutral commerce, and vigilantly acting in conformity with these impressions. We find, that scarcely an American vessel can pass the Bahamas, the straights of Gibraltar, or the English channel, without being seized, in some cases condemned, and in others released, without damages, or with the conviction, that the demand for compensation, would be attended with greater expense than would be defrayed by a successful pursuit of it.

In some instances, your memorialists find new vessels, on their first passage from the U. S. to Europe, arrested, carried out of their course, and injuriously detained, under the vexatious pretence of a continuity of voyage from the country or colony of a belligerent.

In another instance they have witnessed a vessel captured and condemned under the most frivolous pretext, when in the prosecution of an acknowledged and permitted trade, under circumstances which banished every shadow of doubt as to the real destination of the vessel, the identity of the owners, or the actual intention of the parties.

Your memorialists allude to the case of the Indus, Myrick—which vessel was owned by gentlemen of this town, not engaged in commission business—possessing very abundant capital to undertake large and distant enterprises, and the fairness of whose intentions or conduct, has never been questioned or suspected.

The Indus proceeded from Boston to Batavia, there purchased a cargo, and with the return therewith to Boston, was dismasted, and after suffering severely from the elements, obliged to put into the Mauritius: on her arrival there, the ship was found too much injured to prosecute the voyage, was condemned as not sea-worthy, and sold. The captain, not being able satisfactorily to dispose at the Isle of France of that part of the cargo, which remained after defraying the expenses, purchased another vessel, gave her the same name, put on board the residue of his original cargo, and completed his loading with freight belonging to citizens of this town. With this remnant, saved from his misfortunes, he proceeded on the voyage, and had nearly reached the mouth of our harbor, when his vessel was captured by a British cruizer, and carried into Halifax, and there by the vice admiralty court condemned, because among the papers was found a memorandum, reminding the captain after his arrival within the harbor of Boston, to insert in the manifest to be delivered at the custom house, that the ship was bound "for Boston and Embden"—a provision merely intended to operate in case of the restoration of peace before the return of the vessel, and which, as the laws of the U. S. were, when she departed from Boston, was needful to enable her to proceed to Europe without unloading the cargo, or the payment of duties; and which provision, the captain must have been well convinced, was rendered wholly nugatory with the second ship because when he left the U. S. he knew, that if any part of the cargo were entered, the whole must be landed; and having taken freight which he was obliged to deliver here, there no longer remained an election respecting the termination of the voyage, and that it must of necessity be concluded at Boston.

The precautionary memorandum, to insert in the manifest after the arrival of the vessel in our harbor, the words "Boston and Embden," was practised at the time for the same purpose by many of our most correct and intelligent merchants, and is no evidence of an intention to avail of the permission which it gave to proceed to Europe. In the case of the Indus, the owners have disavowed, most formally, under the existing political state of Europe, any intention of continuing the voyage; and this asseveration is corroborated by the strongest collatera evidence it is possible to adduce—the same orders have been given in previous enterprises, in none of which had the permission been availed of—but in every case in which they were interested, the cargoes had been actually landed and sold in the U. S. notwithstanding a similar declaration in the manifest.

In another case, your memorialists learn, that a vessel (the Aurora, Hall,) belonging to Portsmouth, N. H. after having carried out a cargo of innocent merchandize, the property of the natives and merchants of this town, to the neutral port of Leghorn, ordered from thence with specie to Calcutta, and from thence to return with a cargo to this place, has been arrested in the progress of the voyage, carried to Gibraltar, and may probably be condemned, because her outward cargo consisted of colonial produce, and because the captain was permitted by his orders to stop at the isle of France on his voyage to Calcutta, and to avail himself of the state of the markets there, should they be favorable to procure a return cargo for Boston; thus embarrassing a trade which, whether prosecuted to one place or the other, has by all parties been considered as open, and extending the taint of a cargo of colonial produce, further than by most nations are attached to a lading of articles wholly contraband of war, for it is admitted by them, even in that case, that the offence is deposited with the cargo, and ceases on its delivery.

Your memorialists will not proceed to fatigue the attention of government, by either cases, which they presume, so soon as regular documents can be obtained, will be transmitted in precise statements to the department of state.

These few instances they have thought it needful to notice, in order to demonstrate, that unless the present disposition of the British admiralty courts, and navy officers, can be counteracted and removed, a widely dispersed and unprotected commerce, extending to every region of the globe, will only serve to invite depredation, to bankrupt ourselves, and enrich others, until such commerce be swept from the face of the ocean, and leave nothing in its stead, but sentiments of hostility and acts of contention.

Without entering into elaborate disquisitions, your memorialists request permission to make a few remarks on what they conceive to be the principles assumed by Great Britain.

1st. It is contended by G. Britain, that she has the right to interdict entirely a trade by neutrals to the ports of her enemies, such ports not having been open to them in time of peace, & that having the right to interdict this trade altogether, she has, a fortiori, the right to modify it as she pleases—and of consequence, if an enemy nation should remain in a state of war for half a century, any alteration of her colonial system, which, very probably the progress of events might have produced in time of peace, shall not be permitted to her, even should there have taken place during that time, a total and acknowledged revolution of her government, and an abolition of all her ancient systems.

2ndly. That having allowed a direct trade between the colonies of her enemies, and neutral countries, she has a right to say, that such trade shall cease and determine in the neutral state—& that to prevent its further progress, she has the right to examine in all cases, to whom property found on the ocean belongs—to trace the evidences of a continuity of trade—to investigate the latent intentions of neutral merchants—to discriminate between importers and exporters—and then to accord to one part of a community, what she denies to another part.

A tacit submission to pretensions thus lofty and comprehensive, but which your memorialists trust are most of them untenable, would, they conceive, be an abandonment of rights openly recognized, and a dereliction of the most important commercial interests of our country.

Reason and the most powerful considerations of equity, enjoin it as a duty on the U. S. to oppose these pretensions; for, circumstanced as these states are, possessing an immensely extended and fertile territory, producing mostly the necessaries of life, which, with the merchandize obtained from abroad by the industry and enterprize of her citizens, she is obliged to barter, or furnish in payment for importations of foreign produce or manufactures—It behoves her, strenuously to contend for the right of an open commerce in innocent articles between other nations that are willing to accord it and herself; for if the right be not both claimed and admitted, scarcely any of the European powers can in future be engaged in warfare, without making the U. States, in opposition both to her efforts and wishes, either a victim or a party in the contest; for it is well known that the European power is carried on by occasional permission, and by particular relaxations of the prohibitory system; and if the British contend, that the port of Batavia shall not be opened to neutrals in time of war, because it has, ordinarily been closed against them in periods of peace—that the temporary permission to trade there, was extorted merely by the pressure of the maritime superiority of G. Britain, and that to relieve this pressure, by the purchase of Javanese produce, was counteracting the effect of her arms, and giving aid to her enemies in the war—it might with equal force, by parity of reasoning, be contended by France, or any other nation at war with G. Britain, that the limited permission given to the U. S. to trade at Jamaica in articles of the first necessity, was evidently granted with reluctance, and was extorted by the power of their arms on the continent of Europe; that to oppose and counterbalance these, G. Britain was necessitated to victual and man immense fleets, and to organise and support numerous armies—that to provision these fleets, and provide for these armies, consumed all the produce of her country, that not having any articles of subsistence to spare, she must therefore either abandon her colonies to famine, or reduce or distress her armaments by diverting from them, part of the supplies destined to their support—and that for the citizens of the U. S. to step in, and avail of even a six weeks permission to supply her colonies, and thus prevent their falling an easy prey into the arms of France from the pressure of their own necessities, and actually giving aid, and comfort, and existence to the enemy of France, was in effect making a common cause with her, and of course rendered the vessels of the U. S. when captured in the prosecution of such trade, lawful prizes to the cruizers of France.

Thus your memorialists conceive the pretensions afford constant sources of