two distinct aspects, one clearly importing an intended operation within the territorial limits as a local law, the other apparently importing an intended operation on the high seas.

Under the first aspect, the decree, however otherwise objectionable, cannot be said to have violated the neutrality of the U. States. If the governing powers on the continent of Europe choose to exclude from their ports British property or British productions, or neutral vessels proceeding from British ports, it is an act of sovereignty which the United States have no right to controvert. The same sovereignty is exercised by G. Britain at all times, in peace as well as in war, towards her friends as well as her enemies. Her statute book presents a thousand illustrations.

It is only, therefore, under the other aspect of the decree, that it can have violated neutral rights; and this would have resulted from its execution on the high seas, whether on the pretext of a nominal blockade, or with a view to enforce a domestic regulation against foreign vessels, not within the domestic precincts, but under the authority and protection of the law of nations.

Had then the French decree been executed on the high seas against the commerce of the United States with Great Britain, and have the United States acquiesced in the unlawful and injurious proceeding?

I state, sir, on undeniable authority that the first instance in which that decree was put in force against the neutral rights of the United States, was that of the Horizon, an American ship bound from Great Britain to Lima, wrecked within the territorial jurisdiction of France, but condemned under an exposition of the decree extending to the high seas its operation against neutrals. This judicial decision took place as late as the 15th day of October, 1807, and was not officially known to the minister plenipotentiary of the United States at Paris, till some time in November. At the date therefore of the first order of Great Britain, no injury whatever had been done to her, through an aggression on the commerce of the U. States. No presumption even had been sufficiently authorized that the express stipulation in the treaty of France with the U. States would not exempt their commerce at least from the operation of any edict incompatible with them. At the date even of the latter orders of Nov. 11, it appears that the only aggression which had then occurred, was pretty certainly unknown to the British government, & could therefore have had no share in producing this alleged retaliation.

To this fact that the ship Horizon was the first that occurred of an execution of the French decree on the high seas, I am able to add that as late as the 30th of November, no other case had been brought into the French court of prizes. From accounts which have lately appeared, it is more than probable that unlawful captures by French cruizers have since taken place, but it remains to be known whether they are to be referred to the concurrence of the French government in the judgement pronounced in the case of the Horizon, or not rather to a French decree of the 17th December last professing to be a retaliation on the British orders of Nov. 11.

I state with equal confidence, that at no time have the U. S. acquiesced in violations of their neutral rights injurious to G. Britain, or any other belligerent nation. So far were they, in particular, from acquiescing in the French decree of November 1806, that the moment it was known to their minister at Paris, he called for explanations of its meaning in relation to the U. S. which were favorable, and uncontradicted by the actual operation of the decree; that he steadily watched over the proceedings under it, with a readiness to interpose against any unlawful extension of them to the commerce of the U. S. that no time was lost, after the decree came to the knowledge of the government here, in giving him proper instructions on the subject; that he was equally prompt, on receiving the decision of the court in the case of the Horizon, in presenting to the French government a remonstrance in terms which can never be censured for a defect of energy; & that by the first opportunity after that decision reached the president the particular instructions required by it were forwarded to that minister. Nor is it to be forgotten that previous to the British orders of November, it had been explicitly communicated to the British government by the American minister at London, that explanations uncontradicted by any overt act had been given to our minister at Paris, which justifies a reliance that the French decree would not be put in force against the U. S. and that the communication was repeated to the British government immediately on the publication of those orders.

What more could have been required on the part of the U. S. to obviate retaliating pretensions of any sort on the part of G. Britain? Retaliations are measures of rigor in all cases. Where they are to operate through a third and involuntary party, they will never be hastily resorted to by a magnanimous or a just power; which will always allow to the third party its right to discuss the merits of the case, and will never permit itself to enforce its measures, without affording a reasonable time for the use of reasonable means for substituting another remedy. What would be the situation of neutral powers, if the first blow levelled through them by one belligerent against another, was to leave them no choice but between the retaliating vengeance of the latter and an instant declaration of war against the former? Reason revolts against this as the sole alternative. The U. S. could no more be bound to evade the British orders by an immediate war with France, than they were bound to atone for the burning of the French ship of war on the shore of North Carolina, by an immediate resort to arms against G. Britain.

With respect to the principle assumed by the British orders, it is perfectly clear that it could not justify them in the extent given to their operation, if the facts, erroneously assumed, could have been fully sustained.

Retaliation is a specific or equivalent return of injury for injury received; and where it is to operate through the interests of a third party having no voluntary participation in the injury received, the return ought, as already observed, to be inflicted with the most forbearing hand.

This is the language of common sense and the clearest equity. As the right to retaliate results merely from the wrong suffered, it cannot in the nature of things extend beyond the extent of the suffering. There may often be a difficulty in applying this rule with exactness, and a reasonable latitude may be allowable on that consideration. But a manifest and extravagant departure from the rule can find no apology.

What then is the extent of the injury experienced by G. Britain from the measures of her enemies so far as the operation of those measures through the U. States can render them in any sense responsible?

A mere declaration by a belligerent, without the intention or the means to carry it into effect, against the rights and obligations of a neutral nation, and thence against the interests of another belligerent, could afford no pretext to the latter to retaliate at the expence of the neutral. The declaration might give just offence to the neutral, but it would belong to him alone to decide on the course prescribed by the respect he owed to himself. No real damage having accrued to the belligerent, no indemnity could accrue.

For the same reason, a declaration of a belligerent which he is known to be either not in a situation, or not to intend, to carry but partially into execution against a neutral, to the injury of another belligerent, could never give more than a right to a commensurate redress against the neutral. All remaining unexecuted and evidently not to be executed, is merely ostensible, working no injury to any, unless it be in the disrespect to the neutral, to whom alone it belongs to resent or disregard it.

Bring the case before us to this plain and equitable test. The French decree of November, 1806, undertook to declare the British isles in a state of blockade, to be enforced if [illegible] please against the neutral commerce of the United States on the high seas, according to the faculty possessed for the purpose. As far as it was actually enforced, or an effect resulted from an apprehension that it could and would be enforced, it was an injury to Great Britain, for which let it be supposed the United States were answerable. On the other hand, as far as it was not enforced, and evidently either would not or could not be enforced, no injury was experienced by Great Britain, and no remedy could lie against the United States. Now, sir, it never was pretended that at the date of the first British order issued in January, 1807, any injury had accrued to, or was apprehended by Great Britain from an execution of the French decree against the commerce of the United States, on the theatre of their neutral rights. So far from it, that the order stands self condemned as a measure of retaliation, by expressly stating that the fleets of France and her allies, instead of being able to enforce the blockade of the British isles, were themselves confined to their own ports by the entire superiority of the British navy; converting thus, by the strangest of reasonings, the security of Great Britain against injury from the French decree, into a title to commit injury on a neutral party. In the November orders also, whilst it is admitted that the French decree could not be but imperfectly executed for want of means, it is asserted that the intention of the French decree, and not the injury accruing from its operation through the commerce of the United States, is the scale by which the retaliating injury against them is to be measured.

Such are the pretexts and such the principles on which one great branch of the lawful commerce of this country became a victim to the first British order, and on which the last orders are now sweeping from the ocean all its most valuable remains.

Against such an unprecedented system of warfare on neutral rights and national independence, the common judgment and common feelings of mankind must forever protest.

I touch, sir, with reluctance the question on which of the belligerent sides the invasion of neutral rights had its origin. As the U. S. do not acquiesce in these invasions by either, there could be no plea for involving them in the controversy. But as the British orders have made the decree of France, declaring, contrary to the law of of nations, the British islands in a state of blockade, the immediate foundation of their destructive warfare on our commerce, it belongs to the subject to remind your government of the illegal interruptions and spoliations suffered, previous to that decree, by the neutral commerce of the U. States under the proceedings of British cruizers and courts, and for the most part in consequence of express orders of the government itself. Omitting proofs of inferior note, I refer to the extensive aggressions on the trade of the U. States, founded on the plea of blockades, never legally established according to recognized definitions; to the still more extensive violations of our commerce with ports of her enemies, not pretended to be in a state of blockade; and to the British order of council issued near the commencement of the existing war. This order, besides its general interpolation against the established law of nations, is distinguished by a special ingredient violating that law as recognised by the course of decisions in the British courts. It subjects to capture and condemnation all neutral vessels, returning with lawful cargoes, on the sole consideration, that they had in their outward voyage, deposited contraband of war at a hostile port. If the commerce of the U. States could therefore in any case be reasonably made the victim and the sport of mutual charges and reproaches between belligerent parties, with respect to the priority of their aggressions on neutral commerce, Great Britain must look beyond the epoch she has chosen for illegal acts of her adversary, in support of the allegation on which she founds her retaliating edicts against our commerce.

But the U. States are given to understand that the British government has, as a proof of its indulgent and amicable disposition towards them, mitigated the authorised rigor it might have given to its measures, by certain exceptions peculiarly favorable to the commercial interests of the U. States.

I forbear, sir, to express all the emotions with which such a language, on such an occasion, is calculated to inspire a nation which cannot for a moment be unconscious of its rights, nor mistake for an alleviation of wrongs regulations to admit the validity of which would be to assume badges of humiliation never worn by an independent power.

The first of these indulgencies is a commercial intercourse with the dependencies of the enemies of G. Britain, and it is considered as enhanced by its being a deviation in favor of the U. States from the *ancient* and established principle of maritime law prohibiting altogether such an intercourse in time of war.

Surely, sir, your government in assuming this principle in such terms in relation to the U. S must have forgotten their repeated and formal protests against it, as these are to be found in the discussions and communications of their minister at London, as well as in explanations occasionally made on that subject to the British representative here. But permit me to ask, more particularly, how it could have happened that the principle is characterised as an ancient and established one. I put the question the more freely, because it has never been denied that the principle, as asserted by your government, was for the first time introduced during the war of 1756. It is in fact invariably cited and described in all judicial and other official transactions "as the rule of 1756." It can have no pretension therefore to the title of an *ancient* rule.

And instead of being an *established* rule or principle, it is well known that G. Britain is the only nation that has acted upon, or otherwise given a sanction to it. Nay, it is not even an established principle in the practice of G. Britain herself. When first applied in the war of 1756, the *legality* of a neutral trade with enemy's colonies was not contested by it. In certain cases only of the colonial trade, the allegation was, that the presumptive evidence arising from circumstances against the bona fide neutrality of the ownership justified the condemnation as of enemy's property. If the rule of condemnation was afterwards, during that war, converted into the principle now asserted, it could not possibly have been in operation in its new shape, more than a very few years. During the succeeding war of 1773, it is admitted by every British authority that the principle was never brought into operation. It may be regarded, in fact, as having been silently abandoned; and within the period of war since its commencement in 1793, the manner in which the principle has been alternately contracted and extended, explained sometimes in one way, sometimes in another, rested now on this foundation, now on that, is no secret to those who have attended to its history and progress in the British orders of council and the British courts of admiralty.

With the exception, therefore, of a period, the last in modern times from which authentic precedents of maritime law will be drawn, and throughout which the U. States more interested in the question than any other nation, have uniformly combated the innovation, the principle has not in the British tribunals been in operation for a longer term than three, four or five years, whilst in no others has it ever made its appearance but to receive a decision protesting against it.

Such is the antiquity and such the authority of a principle, the deviations from which are held out as so many favors consoling the U. States for the wide spread destruction of their legitimate commerce.

What must be said as to the other exceptions, which seem to have been viewed as claims on the gratitude of the U. S.? Is it an indulgence to them in carrying on their trade with the whole continent of Europe, to be laid under the necessity of going first to a British port, to accept a British licence and to pay a tribute to the British Exchequer, as if we had been reduced to the colonial situation which once imposed these monopolizing restaints?

What again must be said as to other features which we see blended on the face of these regulations? If the policy of them be to subject an enemy to privations, why are channels opened for a British trade with them which are shut to a neutral trade? If in other cases, the real object be to admit a neutral trade with the enemy, why is it required that neutral vessels shall perform the ceremony of passing through a British port, when it can have no imaginable effect but the known and inevitable one of prohibiting the admission of the trade into the port of destination?

I will not ask why a primary article of our productions and exports, cotton wool, is to be distinguished, in its transit, by a heavy impost not imposed on other articles, because it is frankly avowed, in your explanation of the orders, to be intended as an encouragement to British manufactures, and a check to the rival ones of France? I suppress also, though without the same reason for it, the enquiry, why less rigorous restrictions are applied to the trade of the Barbary powers than are enforced against that of a nation, such as the U. S. and in relations such as have existed between them and G. Britain?

I cannot however pass without notice the very unwarrantable innovation contained in the two last of the orders. In one of them, a certificate of the local origin of a cargo, altho' permitted in the port of departure and required in the port of destination, by regulations purely domestic in both, and strictly analogous in principle to the regulations in the commercial code of G. Britain, is made a cause of capture on the high seas, and of condemnation in her maritime courts. In the other order, the sale of a merchant ship by a belligerent owner to a neutral, although a transaction as legal when fair, as a dealing in any other article, is condemned by a general rule, without an atom of proof or of presumption, that the transfer in the particular case is fraudulent and the property therefore left in an enemy.

In fine, sir, the President sees in the edicts communicated by you facts assumed which did not exist, principles asserted which never can be admitted; and, under the name of retaliation, measures transcending the limits reconcileable with the facts and the principles, as if both were as correct as they are unfounded. He sees moreover in the modifications of this system, regulations violating equally our neutral rights and our national sovereignty. He persuades himself therefore that your government will see in the justice of the observations now made in addition to those I had the honor verbally to state to you in the first instance, that the U. S. are well warranted in looking for a speedy revocation of a system which is every day augmenting the mass of injury for which the U. S. have the best of claims to redress.

I have the honor to be, &c. &c.

JAMES MADISON.

The hon. David M. Erskine, Esq.
&c. &c. &c.

NOTICE.

THIS is to give notice that the subscriber of Washington city, hath obtained from the Orphan's Court of Washington county in the district of Columbia, *Letters of Administration* on the Personal Estate of *John Lenthall* late of said city, deceased. All persons having claims against the said deceased are hereby warned to exhibit the same with the vouchers thereof to the subscriber on or before the 25th day of April next, they may otherwise by law be excluded from all benefit of the said estate. Given under my hand this 17th day of October in the year 1808.

JANE LENTHALL, Adm'rx.

October 21—w4t

WASHINGTON CITY.

FRIDAY, NOVEMBER 11.

DIED—Yesterday Doctor JOHN WEEMS of George-Town. His friends are requested to attend his funeral at 3 P. M.

President's Message.—We have forborne, for a short time past, pressing upon our readers any allegations or suggestions relative to the state of our foreign relations. Sufficient light having been previously shed upon them to frustrate extensive misconception, we considered it perfectly harmless to suffer the idle misrepresentations of faction to pass unnoticed, satisfied that a day of reckoning could not fail to arrive, whenever the Executive laid before Congress a full statement of its measures and the dispositions of foreign powers.

It has been the singular good fortune of the annual message of the President ever since the accession of the present Chief Magistrate, to overwhelm and confound a thousand groundless libels, which have regularly during the recess of the Legislature, been propagated with indefatigable industry. But on no antecedent occasion had the hardihood of falsehood raised its front with more arrogant hopes. Notwithstanding the repeated declaration, on the part of the friends of the administration, that it had manifested "an exact and equal justice" to both of the belligerent nations, it has been unblushingly asserted and persisted in, in most of the federal prints, that the measures taken by our government were as hostile to England, as they were partial to France. It seemed as if its adversaries, sensible that the government would not itself come forward with a denial of such a charge, expected that their assertions would from their frequency and violence be extensively credited. But the day of deception is past. The message has given it its death warrant; has ere this determined many a wavering friend, if not converted many a foe; and convinced the nation that every honorable effort has been made to preserve our peace with England as well as France.

So far from the power given by Congress to the Executive to suspend the Embargo having been used as an instrument of hostility to England, it appears that our government has made stronger offers to her than to her enemy. Viewing our commerce as principally endangered by the outrages of Britain, from her ascendancy on the ocean, and considering the suspending power as vested with a view to its exercise in case of such a change in the measures of the belligerents as would rescue it from this danger, the President, it appears, actually made a more unconditional offer to suspend the Embargo to England than to France. He offered, in fact, to do every thing which she had a right to expect, even on her own professions and principles. But the government of that nation, as though resolved *ab initio* on refusing every measure that should tend to restore the commerce of the United States, have rejected the proposition. And to aggravate, if possible, their outrage upon our rights and invasion of our interests, the affair of the Chesapeake, that entering wedge of the whole transaction, is permitted to remain unatoned, nay is placed on a footing, which, if persisted in, must eternally bar the door of adjustment. Topics not only irrelative in themselves are introduced into the discussion, but concessions required which it would be disgraceful for us to make.

The hostile temper of France towards our commerce appears to remain unshaken. With whatever nicety, therefore, we may originally have weighed the degrees of injury inflicted upon us by those two powers, or the considerations which dictated them, now the outrages of both are persisted in, we are called upon impartially to view each as guilty of the same violation of our rights; and, if we do not here extend our remarks, in detail, equally to France as to England, it is not from less indignation felt for the one than the other; but from our unacquaintance, until an examination of the documents, with the precise situation in which our affairs with France stand.

What then remains for us, in this disordered state of the world, when justice and reason are exiled from Europe, but to think, to feel, and to act like Americans; to dismiss all partial feeling, and to know no difference between Frenchmen and Englishmen, while they attempt to scourge us with all the evils in their power to inflict. While the wisdom of our rulers is engaged in unavailing efforts to maintain peace, let the nation be ready to defend itself with an energy that shall convince foreign injustice of our power.

A solicitude to give the documents, referred to in the Message, as early as possible, prevents our dilating on this part of it, or of noticing its other interesting features. This shall be done hereafter. In the mean time we cannot refrain from particularly inviting the attention of our readers to the