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CONGRESS.

HOUSE OF REPRESENTATIVES.

TUESDAY, Oct. 25.

DEBATE ON THE LOUISIANA TREATY.

(Mr. Elliot's speech concluded.)

The gentleman from North Carolina (Mr. Purviance) says he shall vote for carrying the treaty into effect, because the possession of the territory is important, and the administration not having, as it ought to have done, made use of *men* to obtain it, he will consent to make use of *money*. He has applied many curious epithets to the administration; he wishes for an administration, *athletic* and *muscular*, meaning, I suppose, like the wrestlers in the Grecian circus, or the gladiators in that of Rome. When I came within these walls, Sir, I ardently hoped that the voice of party would be silent during the discussion of this subject, and I did not expect to hear the administration attacked in the language of vulgarity, malignity, and factious fury. When it is thus assailed, shall its defenders be silent? During the last session of Congress, an extraordinary degree of agitation was produced in the public mind, by an egregious violation of our rights by an officer of the Spanish government. Neither the people nor the government were deficient in that *spirit* which the gentleman extols, but they were not governed by false ideas of national honor, and they were acquainted with the law of nations; they knew that we had no right to make the *denunciatio belli* precede the *repetitio rerum*, a declaration of war precede a demand of justice. Other epithets which the gentleman applies to his favorite administration I believe justly belong to the present one; *bold, firm, intrepid, manly, virtuous, spirited*, it is owing to its wise and temperate conduct that we are not now engaged in the horrors of war, and it has erected an immortal monument to its own glory. Yet we hear of *malicious subaltern*, and the epithet *cowardly*—(Mr. Purviance here interrupted, and observed that he did not use those expressions)—Mr. Elliot proceeded.—I wrote them down the moment the gentleman uttered them, and I could not understand them otherwise than as intended to have at least a remote application to the President of the United States; I hope the gentleman had no such intention. That we did not go to war, though peculiarly happy for our country, was probably unfortunate for that gentleman, as, in that event, he might have displayed, at the head of a triumphant army, those military talents which he undoubtedly possesses in an equal degree with his oratorical powers.

I must remark upon another extraordinary part of that extraordinary speech. Was it politic, was it prudent, was it just, at a moment when such an important negociation between the French and American governments was closing, for a representative of the American people to labour to irritate the French, or any portion of our own people, by ardent declamation against what is called the unbounded ambition and rapacity of the French Consul? That gentleman has told us, what his great predecessor, but not equal, in eloquence, Edmund Burke, told us long ago, that *the age of chivalry is gone*. But why turn our attention, at this moment, to Switzerland, to Italy, to Hanover, to the bloody scenes of revolutionary France herself? He deplores the fate of the royal Capets, devoted to destruction by the *pert younglings of a day*. If the French revolution has been unsuccessful, if the hopes of the friends of man and liberty have not been gratified, if the whole eastern world is still to groan under the iron hand of despotism, is it a subject of such deep regret, that a gleam of light has darted athwart the horrid gloom, that we have for a time anticipated, though we have failed to realise, the blessings of extended liberty? It is rather a subject of pleasure, and gratitude to Heaven. The First Consul is styled a Corsican usurper. I believe, Sir, that there is not within these walls an admirer of the present government of France. But we all know the distinction between a king or government *de jure* and *de facto*. If Bonaparte be not the rightful ruler of the French Republic, he is the actual possessor of the powers of government, and can bind the nation by treaties. If the Bonapartian shall have followed the Capetian race to the regions of the tomb, when the exchange of the ratifications of this treaty shall reach Paris, it will not be the less obligatory upon the French nation.

The gentleman to whom I have so often alluded denies all merit to the President and the American negociators, and says that the king of Great Britain was our only meritorious and successful negociator. Without attributing to the President the powers of prophecy, I must hazard the opinion, that, in common with all philosophic politicians, he foresaw that the peace between France and Great-Britain would not be permanent. The elements of war were mingled with those of peace.

[Mr. Sanford rose, and Mr. Elliot giving way, Mr. S. enquired of the chairman, whether any rule existed by which members, in committee of the whole, could be required to keep closely to the point in discussion. The chairman, Mr. Dawson, replied that it had not been customary, in committee, to confine gentlemen to narrow limits in their remarks.]

Mr. Elliot concluded as follows:—I had determined, Sir, on the first unequivocal manifestation of impatience, by any member, immediately to close my observations. I acknowledge that I have imperceptibly occupied more than my share of the valuable time of the committee. But I had not quite done with the gentleman from North Carolina. I have paid him some compliments as an orator, perhaps more than were due to the merit of his oration, or the character of its author. I allude only to his political character; his private character, so far as I have information of it, I highly respect; but the political part which he has acted this day was to me so extraordinary and astonishing, that I could not restrain the expression of my feelings. To other gentlemen on his side of the House I look for *real* eloquence and ingenious argument.—And although the gentleman from Virginia (Mr. Randolph) from the display of his powers this day, may safely trust his fame as an orator to the impartial voice of history and posterity, in competition with any orator on the other side of the House, yet I am not without my fears, from former specimens of the talents of gentlemen in the opposition, that we shall one day be swept away in the overwhelming tide of their eloquence. The friends of the present administration can behold, with emotions only of pity, mixed with contempt, the innumerable little, muddy, murmuring rills of faction, folly and slander, which, like spots upon the orb of day, are scattered upon the fair scenery of our far extended country: But they are compelled to listen, with a loftiness of feeling, bordering on sublimity, and not unmingled with terror, to the awful roaring of that tremendous torrent of opposition eloquence, which resounds within these walls, thunders around the capitol, terrifies the administration, and makes even the republican system itself tremble to its centre.

Mr. *Claiborne* urged the propriety of coming to an immediate decision, declaring his conviction of the constitutionality and expediency of the treaty.

Mr. *Thatcher* moved that the committee should rise.

Motion lost, without a division.

Mr. *Sandford* did not rise to make a display of his talents. Those who had confided to him the representation of their interests could have no such expectations, as they had unfortunately selected a plain western farmer. He was sorry to see so much time wasted. He begged the House would recollect the time within which it was necessary to pass laws for carrying the treaty into effect. Much has been said of a breach of the constitution; but has any man shewn it. The constitution does not prohibit the powers exercised on this occasion; and not having prohibited them, they must be considered as possessed by government. In his opinion it was necessary to carry the treaty into immediate effect. This done, other measures would require attention, which would afford an ample harvest for the talents and eloquence of gentlemen, with which, on any other occasion, he would be highly pleased.

Mr. THATCHER was sorry to be obliged at this late hour to state his reasons for voting against the resolution; but he should not discharge his duty to his constituents, were he to refrain from expressing his ideas.—These reasons he should state as briefly as possible. This resolution is general, and contemplates two objects; it calls for the occupation and government of Louisiana, and for an appropriation of fifteen millions of dollars. He had hoped that on a question of such national importance they would have been allowed the papers necessary for its elucidation. But gentlemen have denied us this privilege. As the question, whether this treaty shall be carried into effect, is a great constitutional question, I shall in my remarks confine myself to the constitutional objections that lie against the treaty: Two objections have been made arising from the 3rd and 7th articles of the Treaty.

The 3rd provides that "The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the federal constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

I conceive, said Mr. Thatcher, that the only sound doctrine is, not that which has been stated by the gentleman from Kentucky (Mr. Sanford) that whatever power is not prohibited by the constitution is agreeable to it, but that such powers as are not given are still held by the states or the people. No arguments have been addressed to prove that the constitution delegates such a power. The gentleman from Vermont (Mr. Elliot) who has gratified us with so long and so flowery a speech, and who has ransacked Vattel, and various other eminent authors on the laws of nations has, proved that where the United States have a right to make a treaty a treaty may be made. But these authorities do not apply unless he prove that the constitution gives the powers exercised in the present instance. The confederation, under which we now live, is a partnership of states, and it is not competent to it to admit a new partner but with the consent of all the partners. If such power exist, it does not reside in the President and Senate. The constitution says new states may be admitted by Congress. If this article of the constitution authorises the exercise of power under the Treaty, it must reside with the legislature, and not with the President and Senate.

The gentleman from Virginia says the principle contained in the 3rd article of the Treaty has been already recognised by Congress, and has instanced our treaties with Spain and Great-Britain respecting the adjustment of our limits. By adverting to these treaties, it will be seen that there was then no pretence that we had acquired new territory. They only establish our lines agreeably to the treaty of peace. Certainly then the facts are not similar, and there exists no analogy of reasoning between the two cases. The gentleman from Virginia asks whether we could not purchase the right of deposit at New Orleans? But the argument meant to be conveyed in this question does not apply. We had the right before this treaty was formed; nor did we, in consequence of that right, undertake to admit the people of New Orleans into the union.

Gentlemen say we were for going to war during the last session, for the purpose of acquiring new territory. Mr. Thatcher knew the gentlemen, with whom he generally acted, asserted on that occasion the right of the United States to the deposit at New Orleans, and were, in defence of that right, ready to go to war, if necessary. But he had never heard that it was intended to hold that right in perpetuity: he believed it was only contemplated to hold it as a pledge until our right should be restored and indemnity rendered for our injuries.

It is said that the preference given in the treaty to Spanish and French vessels is to be considered as part of the purchase money. But will gentlemen say it is part of the purchase money when it is applied as well to Spanish as French vessels, though the purchase is altogether made of France? For these reasons it is that the gentleman from Virginia has not convinced my mind respecting the constitutionality of this power. If it is not expressly delegated I must hold that it is still retained by the states or the people. I believe also that the power now contended for by gentlemen implies the power of alienating a part of the United States, and that we might as constitutionally alienate Massachusetts and annex it to the British provinces; for these rights of annexation of new territory and alienation of old must go together, and I shall not be surprised hereafter, if this treaty shall go into effect, at Massachusetts or Vermont being annexed to the British provinces. Under color of this power, a large portion of the union may be annexed to some European kingdom, so as totally to change the principles of our government.

So far as the provisions of this treaty affected the Eastern states, it bore hard upon their interests. The constitution says "no preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another." Now if this territory shall be annexed to the United States, New-Orleans will have a decided preference over all the other ports of the union, inasmuch as the vessels of Spain and France entering that port will have to pay no higher duties than are demanded of our own vessels. The consequence will be that the ships of Spain and France will come in, and supply not only New-Orleans, but all the country bordering on the Mississippi and the Ohio.—What will be the consequence of this to the Eastern states, which the gentleman from Virginia has so handsomely complimented. If they possess a spirit of enterprize, it ought to be encouraged. Instead of that the effect of this treaty will be that they must bring their goods from Europe to their own ports, and then carry them to New-Orleans; by which freight and insurance will be greatly increased; and those charges will enable the French and Spanish vessels to monopolise the carrying trade.

But it is said, this is not a constitutional, but a legal provision. Now if I can understand the obligations imposed by the constitution, every department of the government is bound by it. I conceive that the President and Senate in making treaties, as well as the legislature in making laws, are bound by it.—However great gentlemen may imagine the benefits of this treaty, they do not affect the constitutional question. It was not, therefore, necessary to discuss the expediency of the measure, if unconstitutional; but as gentlemen had dressed these advantages in very alluring colors, it might not be improper to say that if it went into effect it would carry from its present centre a great portion of the population of the United States; would probably remove the seat of government; and might dismember the union.

Mr. Thatcher was not disposed to discuss the causes which have produced the dismemberment of empires, though all history shewed that great empires, whether monarchies or republics, had been ultimately broken to pieces by their magnitude.

This acquisition of distant territory, said Mr. Thatcher, will involve the necessity of a considerable standing army, so justly an object of terror. Do gentlemen flatter themselves that by purchasing Louisiana we are invulnerable? No Sir, Spain will still border on our southern frontier; and so long as Spain occupies that country we are not secure from the attempts of another nation more warlike and ambitious.

Under these impressions it was impossible for him to vote for the resolution.

Mr. RANDOLPH was sensible of the value of the time of the House, and would not in the few remarks he should make occupy five minutes. The gentleman from Massachusetts (Mr. Thatcher) had misapprehended and misstated what he had previously observed. He had not said that the constitutional question made by gentlemen was a mere legal injunction which that House might get rid of; but he had said that the preference of our ships over foreign ships was a legal regulation; and that, therefore, those gentlemen, who were now so tender with regard to the constitution, might have it in their power entirely to get rid of the constitutional difficulty by taking off from the ships of Spain and France such duties as were higher than the duties paid by American vessels. When I say this, said Mr. R. I speak for them, and not for myself, nor shall I move to take off these heavy duties, as I do not feel the force of the constitutional objections urged by gentlemen. The article of the treaty, so often quoted, shews that no preference is given to one port over another. Yet by turning to our statute books, it will be perceived that at present there are some ports entitled to benefits which other ports do not enjoy; that they are set apart for particular objects; and particularly for the entry of articles brought from beyond the Cape of Good Hope. According, therefore, to the doctrine of this day, this is a violation of the constitution.

Mr. SMILIE should not long detain the committee. He differed with gentlemen on the constitutional question; considering a right of annexing territory incidental to all governments. If he were correct in this opinion, such a power was vested in some department of government in the United States.—That it was not vested in the states was clear, as they were expressly divested of the right. They were by the constitution expressly divested of the right of forming treaties and making war. It could then reside in the general government only. It was a position that could not be denied that all societies possessed the right of self-protection. Let us then suppose that a nation unjustly attacked by another nation repels the hostility, and that the injured nation proves successful. Two things will result; the one, a right to indemnity for the injury received and the expence incurred; and the other, a right to future security by making such provisions as shall place it beyond the power of the aggressing nation in future time to repeat her injuries. If he was correct in these principles, and they were not disputed, the right of the United States to annex territory could not be contested, if that measure were connected with her future security. The right indeed was common to all nations; admitted by all; denied by none.

Another constitutional difficulty had been started from the alledged obligation of the United States to incorporate this territory in the union. Mr. Smilie wished gentlemen to attend to that part of the treaty which related to this point, and their difficulties would be removed. The treaty says:

"The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, *according to the principles of the federal constitution*, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property and the religion which they profess."

Now, where, said Mr. Smilie, is the difficulty? We are obliged to admit the inhabitants *according to the principles of the constitution*. Suppose those principles forbid their admission; then we are not obliged to admit them. This followed as an absolute consequence from the premises. There existed, however, a remedy for this case, if it should occur; for if the prevailing opinion shall be that the inhabitants of the ceded territory cannot be admitted under the constitution as it now stands, the people of the United States can, if they see fit, apply a remedy, by amending the constitution so as to authorise their admission. And if they do not chuse to do this, the inhabitants may remain in a colonial state.

Mr. CROWNINGSHIELD. Mr. Chairman, I rise, sir, to correct the gentleman from North Carolina in one particular—he has stated that the First Consul of France signed the treaty ceding Louisiana to the United States after the declaration of war by Great Britain against France.—I believe he is mistaken, Sir, for the Louisiana treaties were signed the 30th April, and Great Britain issued a declaration of war against France on the 17th May. If I am right, sir, the gentleman might have spared himself the trouble of detracting from the merits of the executive on this great occasion—Now I am up, sir, I beg leave to state to the committee some of the reasons why I shall give my vote in favor of these Treaties.

A resolution is on the table, sir, which recommends that provision ought to be made to carry into effect the late treaties with France, which cede Louisiana to the United States—Feeling as I do that we have acquired this country at a cheap price, that it is a necessary barrier in the southern and western quarters of the Union, that it offers immense advantages to us as an agricultural and commercial nation, I am highly in favor of the acquisition, and I shall most cordially give my vote in approbation of the resolution.

What, sir, shall we let slip this golden opportunity of acquiring New Orleans and the whole of Louisiana for the trifling sum of fifteen millions of dollars, when one quarter part of the purchase money will be paid to our own citizens, and the remainder in public stock which we are not obliged to redeem under fifteen years. I trust, sir, we shall not omit to seize the only means now left to us of getting a peaceable possession of the finest country in the world,—The bargain is a good one, and considering it merely in that light, we ought not to relinquish it. I have no doubt, Sir, that the country acquired is richly worth fifty millions of dollars, and it is my opinion, sir, that we ought not to hesitate a moment in passing the resolution on the table.

A gentleman from New York has started doubts respecting the privilege given in the 7th article to French and Spanish vessels coming directly from