





MR. WHITE'S SPEECH
IN THE
SENATE OF THE UNITED STATES,
ON THE
BILL INTERDICTING ALL INTERCOURSE
BETWEEN THE
UNITED STATES
AND
THE ISLAND OF ST. DOMINGO;
FEBRUARY 20, 1806.



MR. PRESIDENT,

THE Senate have, I believe, decided that this question shall be taken by the yeas and nays, otherwise I will hereafter make to you that motion, in order to place upon the journals my vote against a bill, which, instead of going to inhibit, according to the language of the gentleman from Ohio (Mr. Worthington), a disgraceful commerce, will itself, if passed under present circumstances, as I conceive, be a disgrace to this government. We have sincerely to regret that the information we sought, on this occasion, and considered so necessary to the discussion of the subject, has been denied us; and that denial, I will confess, was the less expected, and the less welcome, it being well understood that the light we wished was entirely within the power of the executive to impart, if we had only been permitted to ask for it. The reasons that may have induced gentlemen to negative a request apparently so just, and generally granted almost as a matter of course, I presume not to conjecture: they had no doubt strong ones, but were not so obliging as to communicate them to us. I wish not however to be understood, as making this a subject of complaint; it would be idle to do so. I know that power does usually not only what it wills,



but mostly what it can; and the minority here, on any subject, instead of expecting favours, may think themselves well off if permitted to retain and to exercise the rights guaranteed to them by the constitution of the country, and entrenched behind the rules of the Senate. If, therefore, on this occasion, gentlemen have nothing to accuse themselves with, on the score of a want of liberality, it is not my intention to charge them with injustice. It will be recollected, that the bill, as originally introduced on this subject, by the gentleman from Pennsylvania (Mr. Logan), was variant in every shape and feature from that now before us. The first bill I considered altogether impotent, and had little or no concern as to its fate; but that now under consideration, as presented by the committee, is of a very different complexion, and goes the full length of interdicting all commerce between this country and the island of St. Domingo. Neither in justice nor in wisdom, sir, is it the duty or the interest of this government to adopt the present measure. I do not, as some other gentlemen have professed, consider it a measure of policy, nor will I call it a measure of fear; but it certainly favours of the most timid prudence I have ever seen operating in this body, little calculated to acquire us honor abroad, or to prolong our peace at home; and if gentlemen have really persuaded themselves, that the decision we are about to make involves merely a question of policy, in my humble opinion they most egregiously mistake: no such construction will be given to it; none such, give me leave to say, is it entitled to bear. The surrender of this commerce has never been asked of us, as a temporary sacrifice to the convenience and accommodation of France; but has been demanded of us, in the most insulting and peremptory style, as a matter of right; and passing this bill, under present circumstances, will be an acknowledgment of the right in France, to interdict us this trade: it will be a direct abandonment of all right to it on our part, and establishing a precedent against ourselves, that will be holden obligatory upon us in all future cases of the same kind. In this aspect, the subject must develope itself to every gentleman, as one of the utmost magnitude to the United States. If our commerce with St. Domingo was worth nothing, I would equally resist the present measure: it is the principle I object to. I object, and will forever object, to the solemn recognition on the part of this government, of a right in foreign powers, that may, and hereafter will be ex-

exercised, if now admitted, to the injury of the American commerce, and of the American character. If gentlemen will look for a moment about them, will attend to our position in the world, and to the colonial establishments of the European nations around us, they cannot but be convinced, that cases similar to this must often happen: the sooner, therefore, we take our ground, the better; the less difficulty we shall have hereafter; and surely, a more suitable opportunity than the present can never be expected to occur; especially, sir, when we reflect upon the most uncourtly, indignant, and domineering manner France has attempted to bully and terrify us into this measure of the gentleman from Pennsylvania. And the gentleman himself, yesterday, unmasked the bill. In his great zeal he told us that we had already tampered too long on the subject; that France had now demanded the measure of us, and its adoption had become a matter of necessity on our part. Degrading idea! Where then has gone our national honor, and our boasted independence? What was this but to tell us, that such is now our humbled state, when France commands we have no alternative but obedience; and that even to deliberate is dangerous? [Here Dr. Logan observed he did not recollect using the word *demanded*, to which another gentleman answered, he certainly had.] I had expected, Mr. President, as must have been the case with every other gentleman, that the honorable mover of this measure, (Dr. Logan), when he submitted to the Senate, a proposition of such infinite importance, would have assigned at least some plausible reasons for doing so; but we are now as much in the dark as when our attention was first called to the subject. The gentleman was indeed pleased to refresh our memories by reading to us some old documents, that were presented to congress at their last session, which were then acted upon, and would perhaps never have been thought of again, but for his kindness and research: not a single argument, however, has been adduced, in support of the bill, that has not for more than a year past been losing what little force it might originally have contained; and most unfortunately for the mover, the very document upon which he principally relies, and to which he has so often referred us, furnishes the strongest argument against him: I mean the President's message to the last congress. That the President should have thought it necessary to call the attention of congress to this subject, at their last session, and not at their present, as is the fact, shews most

distinctly his opinion, that whatever reasons required at that time congressional interference, have since ceased to exist.

I will here cursorily premise, that I must be excused in passing over, without observation, the communications that have been recently made on this subject, by the French minister to our government, and by Mr. Talleyrand to general Armstrong; they are of a kind not to admit of comments, without provoking such animadversions as the respect due to the exalted stations those gentlemen fill, and to the government they represent, will not permit me to indulge myself in for a moment. One thing, however, I will say, that whatever influence their threats, and their invectives may acquire, certainly their arguments are entitled to none; for they have not condescended to use a single one; but have taken, as granted, the very points in dispute, viz. That the blacks of St. Domingo are the slaves of the French, and now in such a state of revolt that no nation has a right to trade with them. To these points I will presently give some attention, after a few observations on the subject of our West India commerce, generally, as connected with this question.

It is well known, sir, that a considerable portion of the commerce, which of late years has so rapidly enriched our citizens, and advanced beyond the most sanguine calculations our national wealth, and political consequence, has consisted in the increased intercourse with the West India islands; and this has arisen chiefly from our neutral and neighboring situation toward those islands: from the unrestrained and enterprising spirit of our merchants, and from a combination of circumstances that have been sufficient to involve, and continue in war for a number of years, the most commercial powers of Europe. So extensive and valuable has our trade become in the West Indian seas, that it has excited, and is daily increasing the jealousies of other nations; and certainly, in the same gradation, at least, should increase our disposition to protect and to foster it. But what, let me ask, must be the inevitable operation of the measure now before us? To prostrate completely, at a single blow, the most valuable part of it remaining, and to jeopardize the whole. As if not content with the branches that have been lopped off by the British, the French, and the Spaniards, the gentleman from Pennsylvania, will himself now lay the axe to the root of the tree; and this too, at a moment when our commerce is approaching

the most crippled and ruinous condition ; when the principal commercial nations of Europe, are exerting every effort short of actual war, to crush it ; when your table is loaded with the memorials of your citizens, complaining of the injustice and violence to which they are subjected, in every part of the world, and praying the protection of their government ; when the President of the United States is communicating to us, message after message, upon this very subject ; when almost every mail that arrives, brings to us the unwelcome intelligence of some additional outrages upon the persons, and the property of our countrymen ; and scarcely a wind from any quarter of the globe but swells the catalogue of their grievances.

Our local situation, Mr. President, gives to us advantages in the commerce of the West Indies, over all the nations of the world ; and it is not only the right and the interest, but it is the duty of this government, by every fair and honorable means, to protect and encourage our citizens in the exercise of those advantages. If, in other respects, we pursue a wise policy, and remain abstracted from the convulsions of Europe, that for many years to come are not likely to have much interval ; enjoying, as we shall, all the advantages of peace wages, peace freight, peace insurance, and the other peace privileges of neutral traders, we must nearly acquire a monopoly of this commerce. We can make usually a treble voyage, that is, from this continent to the West Indies, thence to Europe, and back to America again, in the time that the European vessels are engaged in one West India voyage. This circumstance of itself, properly improved, at a period perhaps not very remote, whenever others of those islands may be released from, or refuse longer submission to their present colonial restrictions upon commerce, will enable us to rival even the British, in transporting to the markets of Europe, the very valuable productions of the West Indies, such as sugar, molasses, coffee, spirits, &c. Again, sir, I state nothing new, when I say, that the produce of this country is essential to the West India islands, and the facility with which we can convey it to them, must at all times enable us to furnish them much cheaper, than they can be furnished by any other people. It requires not indeed the spirit of prophecy to foretell, that the time must come, when the very convenient and commanding situation we occupy, in every point of view, relative to the most valuable of those islands, will

place in our hands the entire control of their trade; that is, if we pursue a wise and politic system of measures, in relation to them; holding fast upon all the great advantages nature has given us, and promptly availing ourselves of such others as circumstances may throw in our way. As a source of public revenue; as a means of increasing our national capital; and though last, not least, as a nursery for our seamen, the importance of this commerce to the United States, is incalculable, and should be guarded with a jealous eye; we should never suffer our rightful participation in it, to be diminished by others, much less, have the folly to diminish it ourselves. Those islands are situated in our very neighborhood, and but for the arbitrary colonial restrictions upon commerce, to which they are now subject, no other nation could hold a successful competition with us in their markets, unless some such illjudged, baleful, anti-commercial measure, as has now fallen to the genius of the gentleman from Pennsylvania to contrive, should enable them to do so.

I will now, sir, notice the relative hostile situations of France and St. Domingo, and see how far gentlemen are borne out in their positions. That the people of St. Domingo, can be considered only as revolted slaves; or at best, as French subjects now in a state of rebellion. That they are nationally in no respect separated from France. That to trade with them is a violation of the laws of nations, and that we have no right to do so. This, so far as I could understand them, forms a summary of the points that have been urged in support of the present measure, and in opposition to the trade; each of which deserves, respectively, some attention. If I am wrong in these points, the friends of the bill will please now to correct me; and I hope gentlemen will become convinced during the discussion, that the case, so many of them have stated, of any foreign power succouring and protecting the revolted slaves of the southern states, is not the parallel of that before us. As to the first point, it is to be recollected, that some years past, to quote from high authority, "during the agonizing spasms of infuriated man, seeking through blood and slaughter his long lost liberties," when our enlightened sister republic of France, was, in her abundant kindness, forcing liberty upon all the world, and propagating the rights of man at the point of the bayonet, in one of her paroxysms of philanthropy, she proclaimed, by a solemn decree of her convention, the blessings of liberty and equality

to the blacks of St. Domingo, too; invited them to the fraternal embrace, and to the honors of a conventional sitting. The wisdom, or the policy of this proceeding, it is not my business to inquire into, but it certainly affords some excuse, if any be necessary, for the subsequent conduct of those unfortunate people. The decree abolishing forever slavery in the French West Indies, and extending all the blessings of citizenship and equality to every human creature, of whatever grade or color, then under the government of France, passed the convention in February, seventeen hundred and ninety-four; the existence of such a paper, I had not expected would have been denied here, 'till the gentleman from New Jersey, (Mr. Kitchel), actually did so. In the new annual register, of ninety-four, is the following account of it, page 347. "La Croix rose to move the entire abolition of slavery in the dominions of France. The national convention rose spontaneously to decree the proposition of La Croix. On motion of Danton, on the 5th, the convention resolved to refer to the committee of public safety, the decree of emancipation, in order, that they might provide the most effectual and safest means of carrying it into effect." But here is the decree itself, as taken from the gentleman's magazine, and furnished to me by a friend. "National Convention, 1794, February 4th. The national convention decrees, that *slavery is abolished* in all the French colonies. It decrees in consequence, that all the inhabitants of the French colonies, of whatever color, *are French citizens*, and from this day forward shall enjoy those rights which are secured to them by the declaration of rights, and by the constitution." And this same principle the convention frequently recognized, by receiving at their bar, in the most complimentary manner, various deputations of blacks from the West Indies, thanking them for the boon conferred upon them. One of these instances, among many others, I will submit, as a curiosity in legislative proceedings, to the Senate. "National convention. Order of the day. A band of blacks of both sexes amidst the sound of martial music, and escorted by a great band of Parisians, came into the hall, to return thanks to the legislature, for having raised them to the rank of men. The President gave the fraternal kiss to an old negress, 114 years old, and mother of eleven children. After which, she was respectfully conducted to an armed chair, and seated by the side of the President, amid the loudest bursts of applause."

By the original decree, the liberty of the blacks was established. This ceremony, it seems, was only to shew their equality; and certainly, sir, the President could not have given a much stronger, or a much kinder evidence of it to the old lady. But Mr. President, the claim of those people to freedom does not rest here, I have in my hand, a document of much more recent date, and even more to be relied upon. It is the proclamation of the then first consul, now the emperor and king, to the people of St. Domingo, when general Le Clerc went there, in the winter of 1801, at the head of the French forces, which I will read. First, a short proclamation of general Le Clerc's.

“LIBERTY. EQUALITY.

PROCLAMATION.

On board the Ocean, off the Cape, the 15th of Pluivoise, 10th year of the French Republic, (6th February, 1802).

LE CLERC,

General in chief of the army of St. Domingo, captain general of the colony.

TO THE INHABITANTS OF ST. DOMINGO.

Inhabitants of St. Domingo! Read the proclamation of the first consul of the republic. It assures to the blacks that liberty for which they have so long fought; to commerce and to agriculture that prosperity, without which there can be no colonies. His promises will be faithfully fulfilled; to doubt it would be a crime.

The general in chief,

CAPTAIN GENERAL LE CLERC.

By order of the general in chief,

CAPTAIN GENERAL LENOIR.

Extract from the register of the deliberations of the consuls of the republic, Paris, the 17th Brumaire, 10th year of the French republic, one and indivisible, (8th November, 1801).

PROCLAMATION.

THE CONSULS OF THE REPUBLIC TO THE INHABITANTS OF ST. DOMINGO.

Inhabitants of St. Domingo! Whatever may be your origin and your color, ye are all Frenchmen; ye are all free and all equal before God and the republic.

France, like St. Domingo, has been a prey to factions, and torn by civil and foreign wars. But all is changed! Every people have embraced Frenchmen, and have sworn to them peace and friendship! All Frenchmen have likewise embraced each other, and have sworn to be all friends and brothers. Come ye, also, and embrace Frenchmen, and rejoice to see your friends and your brothers of Europe.

The government sends you the captain general Le Clerc; he carries with him great forces to protect you against your enemies, and against the enemies of the republic. If it should be told you these forces are intended to tear from you your *liberty*, answer, the republic has given us *liberty*. The republic will not suffer that it should be taken from us.

Rally round the captain general; he restores you abundance and peace. Rally round him: he who shall dare to separate himself from the captain general, will be a traitor to his country, and the vengeance of the republic shall devour him as fire devours your dried canes.

Given at Paris, in the palace of government, the 17th Brumaire, 10th year of the French republic:

(Signed,) **BONAPARTE.**

By the first consul,

(Signed,) **H. B. MARET, Secretary,**

A true copy,

LE CLERC, Captain general.

This, sir, is proof irresistible; after which it can never be said that the liberation of those people has been the rash act, or the mere ebullition of the heat and convulsion of a revolution. We have here their liberty solemnly recognised and proclaimed to the world, eight years afterwards, by the man who was then and still is at the head of the French government; or rather, who is now the government itself. I cite these papers to shew that the French have now no claim, either in right, in justice, or in law, to any portion of the people of St. Domingo, as slaves; that they are individually free, if the highest authorities in France could constitute them so, which will surely not be questioned; and in order to rebut a fallacious idea that has been taken up, and urged by some, that our merchants are conducting this commerce with slaves, the property of freemen, and not with freemen themselves: thus ingeniously endeavouring to draw a distinction between the situation of St. Domingo and that of any

other colony that has ever heretofore attempted to separate itself from the mother country; to make their's, according to the language of the gentleman from Virginia, (Mr. Moor) a totally new unprecedented case, and in this manner to take them out of the humane provisions of the laws of nations. I grant, sir, their case does form a distinction from any other, and in this it consists—the people of St. Domingo are fighting to preserve not only their independence as a community, but their liberty as individuals; to prevent a degradation from the exalted state of freemen to the debased condition of slaves, struggling against the manacles that have been forged for them by the lawless ambition of power. We are told, however, they are at least not free as a people, as a body politic; but in such a state of rebellion that no nation has a right to trade with them. Here it becomes necessary to understand each other as to the correct and definite import of words. Gentlemen in common parlance are apt to confound expressions of very different meaning, as has been strikingly the case during the present discussion: hence the word rebellion has been substituted for, and used throughout, as if synonymous with civil war: but although rebellion is often the inception of civil war, there is a material distinction between the two. The former consists in the mere unreasonable insurrection of certain discontented individuals; whereas the latter is a people seriously divided among themselves, in a state of war, each party being capable of making a certain military stand against the other; and this is precisely the situation of France and St. Domingo at present, as will appear by the distinction taken in the books when applied to their case. Vattel's law of nations, b. 3, ch. 18, sec. 292. "Custom appropriates the term of *civil war* to every war between the members of one and the same political society. If it be between part of the citizens on the one side, and the sovereign, with those who continue in obedience to him, on the other; provided the malcontents *have any reason for taking up arms*, nothing further is required to entitle such disturbance to the name of *civil war*, and not that of *rebellion*. This latter term is applied only to such an insurrection against lawful authority, as is void of *all appearance of justice*." And I will submit with confidence to the high and honorable feelings of this senate, whether the human mind is capable of conceiving a stronger *reason* to induce a people to take up arms, than to resist those whose known object it is to reduce

them not only to political, but to personal slavery; or whether any other circumstance could give, according to the language of this writer, an equal *appearance of justice* to their cause. The section thus goes on: "The sovereign, indeed, never fails to bestow the appellation of *rebels* on all such of his subjects as openly resist him: but when the latter have acquired *sufficient strength* to give him effectual opposition, and to oblige him to carry on the war against them according to the established rules, he must necessarily submit to the use of the term *civil war*." And certainly it cannot be said, that the people of St. Domingo have not such *sufficient strength*, when, after a war of so many years with France, we see them not only yet independent, but having now actually besieged the only French force in their country. I might safely have rested the correctness of the definition I have given of the term *civil war*, upon the four first lines only of the same section, the bearing of which too, upon the present question, will be obvious to the mind of every gentleman. They are as follow: "*When a party is formed in a state, who no longer obey the sovereign, and are possessed of sufficient strength to oppose him; or when in a republic the nation is divided into two opposite factions, and both sides take up arms, this is called a civil war.*" Let us now, Mr. President, attend to the present state of St. Domingo; but first to the circumstances that have led to it, and see how far this doctrine will apply. After the bands of the political society that had connected France and her colonies together were broken asunder; when the old government of that country was completely dissolved, and one usurpation succeeded day after day to the places and to the vices of another; when the axe of the guillotine had extinguished the magic lustre of royalty, and even that grace and beauty [a very superb likeness of the late queen of France was hanging directly before him] that had reigned so long unrivalled, the pride and idol of the nation, had to yield herself to the rudeness of a common executioner, and was humbled in death before a scoffing multitude; when the constitution that had been recently established by the voice of the nation, and under which it was hoped they would flourish and be happy, had fallen into the ruthless fangs of the jacobins, and the patriots who supported it had found refuge in exile, or mingled their blood upon the scaffold; when all rightful, civil and legal authority was at an end, d the revolutionary sabre alone gave law, the people of

St. Domingo, as did the people of these states under other circumstances, declared themselves free and independent, determined to take their stand among the nations of the world, and now refuse allegiance to any foreign power. They have organized a government for themselves; they are de facto the governors of the country, and in every respect act as an independent people. They have waged, and carried on with France, for many years a most serious war, in defence of what they say are their rights; and the French by force of arms have been endeavouring to subjugate them. And now let me ask, if the United States, or any other power upon earth, is competent to decide this great controversy between them? They each claim to be free and independent, and therefore acknowledge no superior: the struggle is between themselves, and no other nation has a right to interfere by direct acts of hostility, or by any *cominercial restrictions* that can go to affect injuriously either of the parties, and to do so is a departure from neutral ground, and an infraction of the laws of nations, as I think will be within my power to shew from the most incontestible authorities. For this purpose I will advert again to Vattel. But first let me beg to be understood as not meaning to intimate an opinion, that a colony has not a right to separate herself from the mother country, except in a time of such universal confusion. On the contrary, I believe she has the right whenever she has the power; or what amounts nearly to the same thing, whenever she becomes so far separated as to declare herself free and independent; to organize a government, to proceed in the administration of that government, and to take and pursue measures of self defence. No other nation has a right to investigate the claim she sets up to freedom: no other nation has a right to judge between the parties, or to say on which side belongs the justice of the case; it is exclusively an affair of their own, and it behoves the rest of the world to stand aloof, the silent and impartial spectators of the conflict, treating in their commercial relations each of the parties with like civility.

Before I proceed to the cases I had noted myself, I must beg leave to tender my acknowledgments to the honorable member from Maryland, on my left (Mr. Wright), for one, he has been so obliging as to read to us, and which will be found to be directly in the teeth of the argument he so triumphantly erected upon it. It is in Vattel, B. 3; ch. 18, sec.

296. " Foreign nations are not to *interfere* in the internal government of an independent state. It belongs not to them to judge between the citizens whom discord has roused to arms, nor between the prince and his subjects: both parties are equally independent of their authority." According to this case then, the people of France and the people of St. Domingo, are equally independent of our authority, and the gentleman adduced it to shew that we have no right to *interfere* in their quarrel. Thus far, sir, we agree precisely, and from this point diverge in precisely opposite directions. Sir, the gentleman exactly mistook the case: the *interference* here contemplated is not, as he supposed, a neutral's trading, but *refusing* to trade with a belligerent, situated as are the people of St. Domingo, in relation to France: it is a neutral's withholding from one of the parties, what she grants to the other; giving commercial aid and assistance to one, and denying it to the other. I will ask the gentleman, if this bill, the object of which must be to starve the people of St. Domingo into submission to their enemies, is not a direct and most serious *interference* in their quarrel? More so, Mr. President, give me leave to say, than if you were to invade them with fleets and with armies. Sir, the very object of this case is to shew, that between belligerents, circumstanced in relation toward each other, as are now the people of France and the people of St. Domingo, neutral nations are bound to observe the strictest impartiality; not to grant a benefit to one, that they withhold from the other; but to conduct their commerce with each, alike unrestrained. And if the gentleman had examined the same section a few lines further, he would have found this broad principle laid down: that in the event of such a civil war between citizens of the same country, or between a prince and his subjects, neutral nations are equally at liberty to assist either party, as if they were two independent nations embarked in war. This principle, and the construction I have given to the gentleman's case, will be well supported by others, I shall now have the honor of submitting to the Senate, from the same author. B. 2, ch. 4, sec. 56. " When the bands of the political society are broken, or at least suspended, between the sovereign and his people, the contending parties may then be considered as two distinct powers; and since they are both equally independent of all foreign authority, no body has a right to judge between them. Either may be in the right." B. 3, ch. 18, sec. 295. " When a

nation becomes divided into two parties absolutely independent, and no longer acknowledging a common superior, the state is dissolved, and the war between the two parties stands on the same ground, in every respect, as a public war between two different nations." Again, sir, section 293, of the same book and ch. "A civil war breaks the bands of society and government, or at least suspends their force and effect. It produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame, in breaking the unity of the state, and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? Who shall pronounce on which side the right or the wrong belongs? On earth they have no common superior. *They stand, therefore, in precisely the same predicament, as two nations, who engage in a contest, and, being unable to come to an agreement, have recourse to arms.*" I will now, sir, cite another highly approved and more modern writer to the same point. Marten's law of nations, ch. 2, sec. 10. "Suppose that the interior troubles of a state, come to an open rupture between the sovereign and his subjects, and that the whole nation, or part of it, should wish to drive him from the throne: or, suppose that a *province or territory*, subjected to another state, refuses obedience to it, and endeavors to render itself independent: in either of these cases, there are two points which must be separated in determining on the conduct that foreign powers ought to observe. 1st. The conduct to be observed towards the old or new sovereign, or towards the people who, after having revolted, have declared themselves independent. 2dly. The assistance to be given to either party. With respect to the first of these, a foreign nation, not under any obligation to interfere, do not appear to violate its perfect obligations, nor to deviate from the principles of neutrality, if, in adhering to the *possession*, without examining into its *legality*, it treats as sovereign, him who is actually on the throne, and as an independent nation, people who have declared, and still maintain themselves independent. The opposite party, however, never fails to complain of this conduct, as long as he does not himself acknowledge, by treaty, the validity of such possession, or independence. As to the 2d point, viz. The assist-

ance to be given to either party; *when once obedience has been formally refused, and the refusing party has entered into the possession of the independence demanded, the dispute becomes the same as those which happen between independent states.*"

Could authorities, Mr. President, be more fully up to the case, or shew more unequivocally our right, or rather the just obligation upon us to observe towards France and St. Domingo, during their present conflict, the strictest impartiality? For I contend, and the cases I have cited go the full length of proving it, that they are to be considered, by us, in every respect, as two independent nations; two distinct powers at war; and as such, it is our right and our duty to treat them. The rights and the duties of neutrals, in such circumstances, are so concisely and explicitly pointed out in the volumes I have just referred to, that I must be permitted to trouble the Senate with a few sections on these subjects likewise. Vattel, book 3, ch. 7, sec. 111. "Let us now discuss another case; that of neutral nations resorting to my enemy's country for commercial purposes. It is certain, that as they have no part in my quarrel, they are under no obligations to *renounce their commerce*, for the sake of avoiding to *supply my enemy* with the means of carrying on the war against me. Should they affect to refuse selling me a single article, while at the same time, they take pains to convey an abundant supply to my enemy, with an evident intention to favor him; such partial conduct would exclude them from the neutrality they enjoyed. But if they only continue their customary trade; they do not thereby declare themselves against my interest; *they only exercise a right which they are under no obligation of sacrificing to me.*" Same ch. sec. 118. "A neutral nation preserves, towards both the belligerent powers, the several relations which nature has instituted between nations. She ought to shew herself ready to render them every office of humanity reciprocally due from one nation to another. She ought in every thing, not directly relating to war, *to give them all the assistance in her power*, and of which they may stand in need. Such assistance, however, must be given with *impartiality*; that is to say, *she must not refuse any thing to one of the parties, on account of his being at war with the other.*" It seems indeed superfluous, sir, but I will here refer once more to Marten, book 8, sec. 8, in treating of neutral commerce, according to the universal laws of nations, he says: "One of the most important points to be considered, in treat-

ing of the laws of neutrality, is, the commerce carried on between neutral and belligerent nations. The right that a nation enjoys, in time of peace, of selling and carrying all sorts of merchandise to every nation that chooses to trade with it, it enjoys also in time of war, provided, it remains neuter. It follows, then, that a neutral nation may permit its subjects to carry all sorts of merchandise, including arms and ammunition, to the powers at war, or to that of them, with which this commerce may be carried on to the greatest advantage. *So long as the state, that is, the sovereign power, in a neutral nation, does not interfere, by prohibiting commerce with either or all the powers at war, so long, it would seem, the nation does not transgress the laws of neutrality.*" The universal laws of nations, which formerly licensed neutrals in carrying arms and ammunition, or other articles, properly contraband, to a belligerent, have been modified in that particular, by the modern laws of nations, as may be seen in sec. 12, of the same book and chapter.

From all these cases, Mr. President, I am well warranted in the following deductions: 1st. That when the bands of government among a people, by means of civil war, become broken, or for a time suspended, the two parties are to be considered, at least during the contest, as two distinct powers, as two independent nations who, being otherwise unable to settle their disputes, make a solemn appeal to arms. 2d. That a *revolted colony or province*, whilst holding and exercising the rights of sovereignty, is to be treated by neutral nations as an independent people, without regarding the legality or illegality of their claim to such independence; and 3dly. That in the disputes of such belligerents, neutrals have no right to interfere, either *commercially* or otherwise, to the injury of either; but are bound to conduct themselves with the strictest impartiality towards both. And here, sir, we arrive precisely at the point. The present question seems to be the very focus in which the rays of light emitted from these cases naturally meet. They are too plain to require, or even admit of elucidation. I will leave every gentleman to apply them for himself. According to my understanding they have only to be read or to be heard, in order to attach themselves immediately to the subject of our present consideration. It clearly results then, that we have not only the right, but that we are bound by the laws and usages of nations, to conduct our commerce with St. Domingo, during

existing circumstances, precisely as we should with any independent foreign power that might happen to be engaged in war, and that a contrary conduct, such as that now proposed, would be on their part a just cause of complaint, and even of aggression against us. And I hope it will never be said, that this government, which, according to the polite concession of the French minister, "has taken for the basis of its political career, the most scrupulous equity, and the most impartial neutrality," will now commit an act in open and direct violation of both; and because the people of St. Domingo may at present be unable to enforce right and justice, do them wrong and injustice.

The gentleman from Pennsylvania farthest from me, (Mr. M^cClay) in search of arguments to support this measure, has travelled back to the first years of the American revolution. There I will resort too, sir, and I trust with better success. In the conduct both of France and of England, at that time, we shall find a precedent directly in support of my argument. After these colonies had revolted against the authority of Great Britain, France continued uninterruptedly her commerce with them, other than such as was contraband, till the 6th of February, 1778, when she entered into a treaty of amity and commerce, and another of alliance, eventually to become a treaty offensive and defensive, with us, under the style and character of the thirteen United States. In the first article of the treaty of alliance, France expressly asserts her right to navigate, and carry on commerce with the colonies, and declares, that if the British should, "*in violation of the rights of nations*, attempt to hinder that navigation and that commerce," she would make it a common cause. But to prove unequivocally what was then the opinion of France on this subject, I will refer to one of her own state papers. In the annual register for 1778, p. 299, is the note of the French minister De Noailles, dated London, March 13th, 1778, communicating to the British government the treaty of amity and commerce entered into between France and these states, part of which is as follows: "The United States of North America, who are in full *possession of independence*, as pronounced by them on the 4th of July, 1776, having proposed to the king to consolidate, by a formal convention, the connection begun to be established between the two nations, the respective plenipotentiaries

have signed a treaty of friendship and commerce, designed to serve as a foundation for their mutual good correspondence.

“In making this communication to the court of London, the king is firmly persuaded it will find new proofs of his majesty’s constant and sincere disposition for peace; and that his Britannic majesty, animated by the same sentiments, will equally avoid every thing that may alter their good harmony; and that he will particularly take effectual measures to *prevent the commerce between his majesty’s subjects and the United States of North America from being interrupted*, and to cause all the usages received between commercial nations to be in this respect observed, and all those rules which can be said to subsist between the two crowns of France and Great Britain.” So that it clearly appears France then considered herself as not only having a right to trade, but publicly to enter into a commercial treaty with the revolted colonies of Great Britain, upon the ground that they were, for the time at least, holding and exercising the rights of independence. And yet we are now told by the French minister, that to trade with a revolted colony of France, notoriously in the full possession and exercise of sovereign authority, is “an infraction manifest of law the most sacred, and the best observed by every nation under the dominion of civilization.” And gentlemen will find by referring to the justificatory manifesto of the British government, to be seen, I think, in the annual register for 1779, that their acts of hostility were not commenced against France in consequence of any commerce she did or might carry on with the colonies, but upon the ground of these treaties, and of Mr. De Noailles’s note, which in the manifesto is called an open declaration of war, it being an overt act of France, acknowledging the independence of these states. The gentleman from Pennsylvania, (Mr. Logan) however, tells us, that trading with St. Domingo, may involve us in a war, and therefore we had better quit it. This argument, sir, would have equal force if urged against a peaceable man’s going out into the street, lest somebody should knock him down. But as another means of endangering our peace, he has told us further, that our merchants send arms and ammunition to St. Domingo. This, indeed, if so, I confess is to be regretted, and I wish could be prevented. It is, however, at their own risk, unsanctioned by the government; they know and must abide the consequences. Such articles, if taken, are liable to confiscation; and this is the course pursued every

day throughout the world, under similar circumstances: it is a control over the commerce of neutrals allowed to belligerents by the laws of nations, and has grown out of the necessity of the case. But who ever heard of a nation being involved in war, because a private citizen or subject, of his own mere will, was pleased to sell arms and ammunition to one of the belligerents? If the gentleman's doctrine be correct, to what point would it, or rather would it not carry us? Whenever any two foreign powers may choose to engage in war, we shall be under the necessity of interdicting all commerce abroad, on the part of our citizens, lest some rash adventurous merchant, by vending articles contraband to one of the parties, should likewise involve us in the contest. Sir, such a principle, if I may use the expression, such a phantom of a principle, had never before even the shadow of existence: its palpable absurdity will not bear the test of a moment's investigation: whereas the principle I have had the honor of stating, in relation to contraband goods, is not only that which governs among nations generally, and bottomed on the laws of nations, but is explicitly recognized in the 13th article of our treaty with France, in which, after particularizing the articles that shall be deemed contraband between the parties, it is thus expressly stated: "All the above articles, whenever they are destined to the port of an enemy, are hereby declared to be contraband, and just objects of confiscation; but the vessel in which they are laden, and the residue of the cargo, shall be considered free, and not in any manner infected by the prohibited goods, whether belonging to the same or a different owner." If then, Mr. President, there is any faith or confidence to be reposed in treaties, the honorable member may quiet his fears, as to the danger of private adventures of this kind, involving the nation in a war with France; the two powers anticipating the evil, have wisely provided, in this compact, a milder remedy for it.

I must here inquire, if as gentlemen contend, it is not now lawful to carry on commerce with the people of St. Domingo, when it may probably become so? Suppose, for instance, the French should continue this inefficient kind of warfare upon them, if even such it may be considered, for a century to come, holding as at present but a single post in the island, whilst the natives are in full possession of the sovereignty of the country, and administering a regular government? Will it be said under such circumstances that no nation is to be allowed to

trade with them for a century to come? Or will gentlemen hold them as rebels to all eternity, and never suffer the rest of the world to have intercourse with them? Sir, those people will never be reduced by general Ferrand's war of proclamations; and whilst on this subject, I must be permitted to express my astonishment at a very extraordinary document of this kind, that has been recently laid upon our tables, signed by general Ferrand, and purporting to be a proclamation, or decree of his, directed chiefly at the citizens and commerce of the United States. It is, indeed, throughout, calculated to inspire no other sentiment than contempt; the arrogance and presumption of its style and manner is equalled only by the emptiness of its threats. *General Ferrand*, shut up in the city of St. Domingo, with scarcely the power of conveying his proclamation beyond the redoubts of his garrison, undertakes to prescribe, to all the neutral nations of the earth, the extent of their rights, and the manner in which they shall conduct their commerce; and expresses truly, great surprise that *his* former decree on the subject had not been better attended to by them; in which, as he says *he* had "left no doubt as to the sentiments of respect due to the freedom of navigation and neutral rights." As if the navigation, the commerce, and all the rights of neutral nations depended now, upon the caprice of a French officer, and were, like the police of a camp, to be settled by general orders. And this same captain general, as he calls himself, pro tempore, besieged by a parcel of unarmed, undisciplined, half starved negroes, without the means of making even a fortie upon them, talks of the "*impudence*" of our public officers, and threatens with the vengeance of his mighty arm, all the people of the United States that go contrary to his orders. Sir, I can liken this proclamation to nothing but the idle vapourings of a fettered maniac, menacing, from the grates of his cell, the overthrow of the world. If the Pope had issued a bull of excommunication against the whole of us, it could not have been half so ridiculous as this proclamation, upon which the gentleman from Maryland, on my left, (Mr. Wright) has inadvertently rested as one of the strong holds of his argument; telling us, to use his own words, that it was a requisition too imperious to be resisted. Then, sir, such is the ground we now occupy among nations, that the mandate of a French officer, besieged in the West-Indies by a rabble of starving negroes, is a requisition too imperious for us to resist. Were I of opinion with that

honorable member, I should at once be for soliciting the protection of those blacks, and praying of them, in Heaven's name, to keep where he is, this mighty warrior, this terror of our land; but thinking as I do, sir, the imperious manner of this decree is one of the reasons why I would not only resist it if necessary, but treat it with the most marked and sovereign contempt. General Ferrand might have been serious in writing such a proclamation, or decree, expecting it to have some operation upon the feelings and the fears of the ignorant blacks of St. Domingo, but he certainly, even himself, could never have been crazy enough, for a moment to suppose, that any citizen of the United States, arrived at years of maturity, or rather of discretion, would be serious in reading it, or that the government of this country would give it a moment's serious consideration.

As a sample, Mr. President, of what this proclamation would do, it may not be amiss, whilst his decree is before us, to examine a few of its most prominent features. By the first article, all neutral vessels, bound, or plausibly suspected to be bound to, or coming from, what he calls the rebel ports, are liable to *detention*; that, in the West Indies, means *condemnation*. By the 8th article, the officers, passengers and crews of such vessels are directed to be sent, as soon as possible, *prisoners* to the city of St. Domingo, to be *prosecuted according to the rigor of the laws*. And by the 13th article, a privateer taking one of your vessels from any port in possession of the blacks, is exempted from all duties upon his prize. Here, indeed, it would seem, as if general Ferrand, in the vauntings of his omnipotency, had suspended, for a time, the laws of nature and of nations, the sacred obligations of treaties, and even the principles of right and justice, in order to settle this great question, uninfluenced by any of their embarrassing regulations. He has threatened your citizens with the ban of the empire: he has condemned your commerce before it leaves your ports; and, as if the acknowledged prince of pirates, has proclaimed a reward to all such of them as will plunder you. Among the many very extraordinary parts of this most extraordinary document, that is not the least so, in which reference is made to the treaty between France and the United States: a garbled quotation is given of the 26th article, and then a case is made to suit it. We are told, that "Vessels armed under the American flag, daily convoy and sail in concert with vessels of the negroes, bearing a flag un-

known amongst the civilized powers, and consequently pirates." This, I confess, is a circumstance I had never heard of before, and to my mind almost incredible, that the citizens of the United States should be so blind to their interest, as to become the mere protectors and encouragers of others, in carrying on a commerce, that they could carry on themselves to so much greater advantage, especially, when the risk to them is precisely the same; and that those negroes should hazard their vessels, their liberties, and their lives, in transacting a business that neutrals are every hour willing, ready, and waiting to transact for them. But even admitting the fact; admitting for argument sake, that certain negroes of the West Indies may have acted as pirates, and that some vessel or vessels of this country, may have afforded them protection upon the high seas. Is this any ground upon which to inhibit the whole commerce between the United States and St. Domingo? Would any citizen or citizens of the United States, becoming pirates upon the coast of England, or trading, combining, or confederating with pirates there, which by the 8th statute of George the first, is made the same thing, be any justification, on the part of that government, to interdict all intercourse with this country? No man in his senses can believe or say so. It could not, sir, however, have escaped the attention of the Senate, that this circumstance, so much relied upon by general Ferrand, has never been even hinted at, either by the French minister, or by Mr. Talleyrand, in their recent communications on this subject to our government: and it would be passing strange, indeed, if Mr. Talleyrand, of all other men in the world, should pass over unnoticed, an occurrence of this kind, if true, when for the want of causes of complaint, he had to make a dinner, and the toasts of some private company in the city of New York, the subject of one of them. An affair with which, Mr. Talleyrand knows well, that this government, or any other free government, could have nothing more to do, than they had with a complaint that was made by Mr. Adet, against our almanac makers, for placing in their almanacs, the name of the British minister before his. But gentlemen will find, by attending to the 26th article of the treaty, that it has little or no connexion with the present question; scarcely more relation to it than any text in the apocrypha, but was introduced merely for the punishment of those who should "receive, protect, harbor, conceal, or assist, any pirates within the ports, havens of

towns," of either of the countries, respectively. It is not, sir, the 26th, but the 12th article of the treaty, that bears upon our present subject, part of which I must beg leave now to read. Article 12th. "It shall be lawful for the citizens of either country to sail with their ships and merchandise (contraband goods always excepted) from any port whatever, to any port of the enemy of the other, and to sail and trade with their ships and merchandise, with perfect security and liberty, from the countries, ports and places of those who are enemies of both, or of either party, without any opposition or disturbance whatsoever, and to pass not only directly from the places and ports of the enemy, aforementioned, to neutral ports and places, but also from one place belonging to an enemy, to another place belonging to an enemy, whether they be under the jurisdiction of the same power, or under several; unless such ports or places shall be actually blockaded, besieged, or invested." Here, sir, is given to us explicitly the right, as a neutral nation, of trading with all the enemies of France, and it certainly will not be denied, that the people of St. Domingo are such, and not only of trading directly from this country to theirs, but from any one of their ports to any other. If this be not the plain meaning of the article I have read, there is no meaning in words: a treaty is a mere chart blanc, into which every speculative politician may foist his crude opinions. Our right then, sir, to this commerce, does not depend merely upon the laws of nations, but upon the solemn obligations of this instrument, that no sophistry can evade, nor obscure with the shadow of a doubt.

I hold, therefore, this trade to be lawful; that we have a right to carry it on; and if, in doing so, we are annoyed and robbed by pirates, we have another right, that of arming in order to keep such people off. What do we arm for, sir? Is it to fight the French? to insult the flag? to distress the commerce? or to disturb the quiet and repose of any nation? No sir: our conduct in this respect is sanctioned by the first law of nature. It is upon the same principle that a private citizen would prepare himself against the apprehended attacks of a high-way robber, or a midnight assassin. It is to defend our property and our lives against the rapacity and violence of a horde of pirates, who are notoriously armed every hour to assault them, and whose conduct no nation will avow, punish or atone for.

We have been exultingly told by Mr. Talleyrand, and it has been echoed from this chamber by the gentleman from New York, (Mr. Mitchell) that even the British consider St. Domingo a colony of France, and upon this principle condemn our vessels for trading there. I grant that such a pretext, among many others, has been resorted to in order to destroy our commerce; I grant that such an infringement of our neutral rights has been committed, and the reasons that have induced it must be obvious to the most superficial observer. The British wish a monopoly of this commerce themselves; and those same Englishmen who now condemn our vessels for trading to St. Domingo, upon the ground of its being a French colony, heretofore, when it suited their purposes, so far acknowledged the independence of those very people as to enter into a commercial treaty with them, and are now, not only in the constant practice of trading there themselves, but of granting licenses to others to do so. I hope, however, the day has not come when our commerce is to be under the controul of the lords of the admiralty, or our national rights dependent upon the judicial opinions of sir William Scott; and the learned gentleman from New York must indeed have been pressed with the barrenness of his case, when he had to resort to such an argument, derived from such a source. The gentleman from New Jersey, (Mr. Kitchell) I must in candor say, has, in support of the present measure, assumed premises totally new and different; his reasons, like most of those we have been accustomed lately to hear, were in the true style of modern legislation, enveloped in all the mysteries of secrecy. He tells us that we had better give up this commerce, because it is not valuable. Where the gentleman obtained this piece of information is utterly beyond the comprehension of my understanding: none such, certainly, has ever been laid before us; nor did he condescend to give us a clue to its source; but as if sufficient, to urge it upon our faith with all the confidence of apostolic inspiration: to us who doubted he refused even an opportunity of acquiring knowledge through any other channel; voted against the propositions of my friend and colleague, which went to ask of the executive the actual state of this commerce, and to ascertain its real value. To do strict justice to the gentleman's argument, it is simply this, that whenever any foreign power may please to demand of us the surrender of a right, however just and honest it may

be; however it may comport with the dignity of the government to preserve it; if, in a pecuniary point of view; if upon a cool peddling calculation of risk, profit and loss, it cannot be deemed of high value, we are at once to give it up. This argument, I will confess, sir, is worthy of the bill. So striking, and of such a kind is their affinity, that they seem peculiarly calculated to expose each other, and to excite in every mind valuing the honor, the dignity and the character of the nation, like sentiments of disgust. The case cited by the gentleman from Pennsylvania (Mr. McClay) of the Indians, I think in 1755, under the avowed authority, direction and support of the French government, ravaging our frontiers, surely can have no relation to the question before us. Has this government ever furnished arms and ammunition, or done any other act in order to assist and encourage the people of St. Domingo in attacking the countries of their neighbors? I cannot conceive what subject, that might have been before congress during our present session, the gentleman must have had in his mind, to which he supposed this case could apply; certainly not the present; it is infinitely more distant in point of analogy than of date. I have been exerting my imagination to discern any object or bearing it can have, that I might endeavor to meet it, but the total impossibility of the one, will save me the trouble of the other.

A few words now, Mr. President, as to the impolicy of adopting the present measure. I fear and believe it will have a tendency to increase one of the great evils at present so much complained of by our merchants; the number of pirates and freebooters in the West Indian seas. It will have the further effect, of throwing into the hands of other nations, especially the British, a valuable commerce at present conducted by our own citizens. But there is another far more serious consequence which, in all human probability, may result from it, and to which I beg leave to call the attention of the gentlemen from our southern country. With the people of St. Domingo we are now at peace: the advantages of our commerce to them, and their immediate dependence upon us for the necessaries of life, form the strongest security we could possibly ask, or have, that no act of hostility will be attempted, on their part, toward us, whilst we continue to treat them as heretofore; but only restrict or embarrass your commerce with them; only pass a measure like the

present, and you wound them in the tenderest part: they will see you, without provocation, aiming a blow at their very vitals; and will consider you as having abandoned your neutral ground, and sided with their enemies. What will be the consequence? Does any gentleman suppose that nearly a million of people will patiently starve when the seas around them are covered with our defenceless merchantmen, laden with provisions? No, sir, impossible!! In addition; then, to the renegados that at present prey upon you there, you immediately bring upon your trade a whole nation of pirates. Those people are now content to stay at home, to till their own fields, to fight their own battles, and to depend upon us for supplies. I do not wish to see their views extend further. I do not wish to see them navigating the ocean, or tasting the sweets of maritime plunder: such things are much easier learned than forgotten; much more readily resorted to than given up; and I consider the general commerce and prosperity of the United States, but more especially the delicate situation of our southern country, viewing its particular description of population, and convenience to them, as imposing upon us the strongest obligations to offer them no inducements to resort to either. Whatever intercourse takes place between us, I wish to be in their own ports, and will never do an act that shall have a tendency to bring to our shores such visitors, either as friends, or as enemies; and I believe this is the true course to avoid the calamity which some gentlemen seem so much to apprehend, and which I should deprecate as sincerely as any man.

I rejoice that the president has expressed, in his late message, a disposition to take into the protection of the government, the commerce of the United States, though little has yet been done, or attempted. This project of the gentleman from Pennsylvania I hope forms no part of the new system, and he would have acted wisely, before he submitted it, to have examined better its consequences, and to have looked, for a moment, at the present condition of our commerce. What is it? Plundered upon every coast, and in every sea: your flag, instead of being a protection against insult, seems to have become an invitation to injury: the British, the French, and the Spaniards, in the ratio of their force, treat *us* with like indignities: this is the only point in which they can agree. The former have adopted, and openly avow a system of measures that, if not counteracted, must go to deprive us of the

most important of our neutral rights; whilst the two latter are anxiously rivalling each other in the most lawless and piratical depredations upon our defenceless trade; even the commissioned vessels of our government have not been suffered to pass the high seas without insult and violence. The British and the French, whenever it suits their views, blockade our very ports: the British take their position off New York, so as to be convenient to the courts of Halifax; and our friends, the French, to whom the gentleman from Pennsylvania has told us we should be so particularly civil, take, occasionally, into their holy keeping, the commerce of Charleston and New Orleans, so as to be at a convenient distance from the British. Our trade with St. Domingo, indeed, the French have not been able to stop, nor have even the British yet assumed to themselves this maritime right; but the gentleman from Pennsylvania, in his great good faith, and abundant charity, will now anticipate their wishes, and do it for them. This, indeed, surpasses even christian meekness; it is not only, when smitten upon one cheek, turning the other also, but chastening ourselves, with more than monkish severity, in the most vulnerable part.

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