The Impressment
of an American Seaman
SEA POWER IN ITS RELATIONS TO THE WAR OF 1812

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PREFACE

The present work concludes the series of "The Influence of Sea Power upon History," as originally framed in the conception of the author. In the previous volumes he has had the inspiring consciousness of regarding his subject as a positive and commanding element in the history of the world. In the War of 1812, also, the effect is real and dread enough; but to his own country, to the United States, as a matter of national experience, the lesson is rather that of the influence of a negative quantity upon national history. The phrase scarcely lends itself to use as a title; but it represents the truth which the author has endeavored to set forth, though recognizing clearly that the victories on Lake Erie and Lake Champlain do illustrate, in a distinguished manner, his principal thesis, the controlling influence upon events of naval power, even when transferred to an inland body of fresh water. The lesson there, however, was the same as in the larger fields of war heretofore treated. Not by rambling operations, or naval duels, are wars decided, but by force massed, and handled in skilful combination. It matters not that the particular force be small. The art of war is the same throughout; and may be illustrated as really, though less conspicuously, by a flotilla as by an armada; by a corporal's guard, or the three units of the Horatii, as by a host of a hundred thousand.
The interest of the War of 1812 to Americans, has commonly been felt to lie in the brilliant evidence of high professional tone and efficiency reached by their navy, as shown by the single-ship actions, and by the two decisive victories achieved by little squadrons upon the lakes. Without in the least overlooking the permanent value of such examples and such traditions, to the nation, and to the military service which they illustrate, it nevertheless appears to the writer that the effect may be even harmful to the people at large, if it be permitted to conceal the deeply mortifying condition to which the country was reduced by parsimony in preparation, or to obscure the lessons thence to be drawn for practical application now. It is perhaps useless to quarrel with the tendency of mankind to turn its eyes from disagreeable subjects, and to dwell complacently upon those which minister to self-content. We mostly read the newspapers in which we find our views reflected, and dispense ourselves easily with the less pleasing occupation of seeing them roughly disputed; but a writer on a subject of national importance may not thus exempt himself from the unpleasant features of his task.

The author has thought it also essential to precede his work by a somewhat full exposition of the train of causes, which through a long series of years led to the war. It may seem at first far-fetched to go back to 1651 for the origins of the War of 1812; but without such preliminary consideration it is impossible to understand, or to make due allowance for, the course of Great Britain. It will be found, however, that the treatment of the earlier period is brief, and only sufficient for a clear comprehension of the five years of intense international strain preceding the final
rupture: years the full narrative of which is indispensable to appreciating the grounds and development of the quarrel, — to realize what they fought each other for.

That much of Great Britain's action was unjustifiable, and at times even monstrous, regarded in itself alone, must be admitted; but we shall ill comprehend the necessity of preparation for war, if we neglect to note the pressure of emergency, of deadly peril, upon a state, or if we fail to recognize that traditional habits of thought constitute with nations, as with individuals, a compulsive moral force which an opponent can control only by the display of adequate physical power. Such to the British people was the conviction of their right and need to compel the service of their native seamen, wherever found on the high seas. The conclusion of the writer is, that at a very early stage of the French Revolutionary Wars the United States should have obeyed Washington's warnings to prepare for war, and to build a navy; and that, thus prepared, instead of placing reliance upon a system of commercial restrictions, war should have been declared not later than 1807, when the news of Jena, and of Great Britain's refusal to relinquish her practice of impressing from American ships, became known almost coincidently. But this conclusion is perfectly compatible with a recognition of the desperate character of the strife that Great Britain was waging; that she could not disengage herself from it, Napoleon being what he was; and that the methods which she pursued did cause the Emperor's downfall, and her own deliverance, although they were invasions of just rights, to which the United States should not have submitted.

If war is always avoidable, consistently with due resist-
ance to evil, then war is always unjustifiable: but if it is possible that two nations, or two political entities, like the North and South in the American Civil War, find the question between them one which neither can yield without sacrificing conscientious conviction, or national welfare, or the interests of posterity, of which each generation in its day is the trustee, then war is not justifiable only; it is imperative. In these days of glorified arbitration it cannot be affirmed too distinctly that bodies of men — nations — have convictions binding on their consciences, as well as interests which are vital in character; and that nations, no more than individuals, may surrender conscience to another's keeping. Still less may they rightfully pre-engage so to do. Nor is this conclusion invalidated by a triumph of the unjust in war. Subjugation to wrong is not acquiescence in wrong. A beaten nation is not necessarily a disgraced nation; but the nation or man is disgraced who shirks an obligation to defend right.

From 1803 to 1814 Great Britain was at war with Napoleon, without intermission; until 1805 single handed, thenceforth till 1812 mostly without other allies than the incoherent and disorganized mass of the Spanish insurgents. After Austerlitz, as Pitt said, the map of Europe became useless to indicate distribution of political power. Thenceforth it showed a continent politically consolidated, organized and driven by Napoleon's sole energy, with one aim, to crush Great Britain; and the Continent of Europe then meant the civilized world, politically and militarily. How desperate the strife, the author in a previous work has striven fully to explain, and does not intend here to repeat. In it Great Britain laid her hand to any weapon she could
PREFACE

find, to save national life and independence. To justify all her measures at the bar of conventional law, narrowly construed, is impossible. Had she attempted to square herself to it she would have been overwhelmed; as the United States, had it adhered rigidly to its Constitution, must have foregone the purchase of the territories beyond the Mississippi. The measures which overthrew Napoleon grievously injured the United States; by international law grievously wronged her also. Should she have acquiesced? If not, war was inevitable. Great Britain could not be expected to submit to destruction for another's benefit.

The author has been indebted to the Officers of the Public Records Office in London, to those of the Canadian Archives, and to the Bureau of Historical Research of the Carnegie Institution of Washington, for kind and essential assistance in consulting papers. He owes also an expression of personal obligation to the Marquis of Londonderry for permission to use some of the Castlereagh correspondence, bearing on the peace negotiations, which was not included in the extensive published Memoirs and Correspondence of Lord Castlereagh; and to Mr. Charles W. Stewart, the Librarian of the United States Navy Department, for inexhaustible patience in searching for, or verifying, data and references, needed to make the work complete on the naval side.

A. T. MAHAN.

September, 1905.
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ANTECEDENTS OF THE WAR

CHAPTER I

COLONIAL CONDITIONS

The head waters of the stream of events which led to the War of 1812, between the United States and Great Britain, must be sought far back in the history of Europe, in the principles governing commercial, colonial, and naval policy, accepted almost universally prior to the French Revolution. It is true that, before that tremendous epoch was reached, a far-reaching contribution to the approaching change in men’s ideas on most matters touching mercantile intercourse, and the true relations of man to man, of nation to nation, had been made by the publication, in 1776, of Adam Smith’s “Inquiry into the Nature and Causes of the Wealth of Nations;” but, as is the case with most marked advances in the realm of thought, the light thus kindled, though finding reflection here and there among a few broader intellects, was unable to penetrate at once the dense surface of prejudice and conservatism with which the received maxims of generations had incrusted the general mind. Against such obstruction even the most popular of statesmen—as the younger Pitt soon after this became—cannot prevail at once; and, before time permitted the
British people at large to reach that wider comprehension of issues, whereby alone radical change is made possible, there set in an era of reaction consequent upon the French Revolution, the excesses of which involved in one universal discredit all the more liberal ideas that were heaening the leaders of mankind.

The two principal immediate causes of the War of 1812 were the impressment of seamen from American merchant ships, upon the high seas, to serve in the British Navy, and the interference with the carrying trade of the United States by the naval power of Great Britain. For a long time this interference was confined by the British Ministry to methods which they thought themselves able to defend—as they did the practice of impressment—upon the ground of rights, prescriptive and established, natural or belligerent; although the American Government contended that in several specific measures no such right existed,—that the action was illegal as well as oppressive. As the war with Napoleon increased in intensity, however, the exigencies of the struggle induced the British cabinet to formulate and enforce against neutrals a restriction of trade which it confessed to be without sanction in law, and justified only upon the plea of necessary retaliation, imposed by the unwarrantable course of the French Emperor. These later proceedings, known historically as the Orders in Council,¹ by their enormity dwarfed all previous causes of complaint, and with the question of impressment constituted the vital and irreconcilable body of dissent which dragged the two states into armed collision. Undoubtedly, other matters of difficulty arose from time to time, and were productive of dispute; but either they were

¹ Order in Council was a general term applied to all orders touching affairs, internal as well as external, issued by the King in Council. The particular orders here in question, by their extraordinary character and wide application, came to have a kind of sole title to the expression in the diplomatic correspondence between the two countries.
of comparatively trivial importance, easily settled by ordinary diplomatic methods, or there was not at bottom any vital difference as to principle, but only as to the method of adjustment. For instance, in the flagrant and unpardonable outrage of taking men by force from the United States frigate "Chesapeake," the British Government, although permitted by the American to spin out discussion over a period of four years, did not pretend to sustain the act itself; the act, that is, of searching a neutral ship of war. Whatever the motive of the Ministry in postponing redress, their pretexts turned upon points of detail, accessory to the main transaction, or upon the subsequent course of the United States Government, which showed conscious weakness by taking hasty, petty half-measures; instead of abstaining from immediate action, and instructing its minister to present an ultimatum, if satisfaction were shirked.

In the two causes of the war which have been specified, the difference was fundamental. Whichever was right, the question at stake was in each case one of principle, and of necessity. Great Britain never claimed to impress American seamen; but she did assert that her native-born subjects could never change their allegiance, that she had an inalienable right to their service, and to seize them wherever found, except within foreign territory. From an admitted premise, that the open sea is common to all nations, she deduced a common jurisdiction, in virtue of which she arrested her vagrant seamen. This argument of right was reinforced by a paramount necessity. In a life and death struggle with an implacable enemy, Great Britain with difficulty could keep her fleet manned at all; even with indifferent material. The deterioration in quality of her ships' companies was notorious; and it was notorious also that numerous British seamen sought employment in American merchant ships, hoping there to find refuge from the protracted confinement of a now dreary
maritime war. Resort to impressment was not merely the act of a high-handed Government, but the demand of both parties in the state, coerced by the sentiment of the people, whose will is ultimately irresistible. No ministry could hope to retain power if it surrendered the claim to take seamen found under a neutral flag. This fact was thoroughly established in a long discussion with United States plenipotentiaries, five years before the war broke out.

On the other hand, the United States maintained that on the sea common the only jurisdiction over a ship was that of its own nation. She could not admit that American vessels there should be searched, for other purposes than those conceded to the belligerent by international law; that is, in order to determine the nature of the voyage, to ascertain whether, by destination, by cargo, or by persons carried, the obligations of neutrality were being infringed. If there was reasonable cause for suspicion, the vessel, by accepted law and precedent, might be sent to a port of the belligerent, where the question was adjudicated by legal process; but the actual captor could not decide it on the spot. On the contrary, he was bound, to the utmost possible, to preserve from molestation everything on board the seized vessel; in order that, if cleared, the owner might undergo no damage beyond the detention. So deliberate a course was not suited to the summary methods of impressment, nor to the urgent needs of the British Navy. The boarding officer, who had no authority to take away a bale of goods, decided then and there whether a man was subject to impressment, and carried him off at once, if he so willed.

It is to the credit of the American Government under Jefferson, that, though weak in its methods of seeking redress, it went straight back of the individual sufferer, and rested its case unswervingly on the broad principle.\(^1\)

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\(^1\) Instructions of Madison, Secretary of State, to Monroe, Minister to Great Britain, January 5, 1804. Article I. American State Papers, vol. iii. p. 82.
That impressment, thus practised, swept in American seamen, was an incident only, although it grievously aggravated the injury. Whatever the native allegiance of individuals on board any vessel on the open ocean, their rights were not to be regulated by the municipal law of the belligerent, but by that of the nation to which the ship belonged, of whose territory she was constructively a part, and whose flag therefore was dishonored, if acquiescence were yielded to an infringement of personal liberty, except as conceded by obligations of treaty, or by the general law of nations. Within British waters, the United States suffered no wrong by the impressment of British subjects—the enforcement of local municipal law—on board American vessels; and although it was suggested that such visits should not be made, and that an arriving crew should be considered to have the nationality of their ship, this concession, if granted, would have been a friendly limitation by Great Britain of her own municipal jurisdiction. It therefore could not be urged upon the British Government by a nation which took its stand resolutely upon the supremacy of its own municipal rights, on board its merchant shipping on the high seas.

It is to be noted, furthermore, that the voice of the people in the United States, the pressure of influence upon the Government, was not as unanimous as that exerted upon the British Ministry. The feeling of the country was divided; and, while none denied the grievous wrong done when an American was impressed, a class, strong at least in intellectual power, limited its demands to precautions against such mistakes and to redress when they occurred. The British claim to search, with the object of impressing British subjects, was considered by these men to be valid. Thus Gouverneur Morris, who on a semi-official visit to London in 1790 had had occasion to remonstrate upon the impressment of Americans in British ports, and who, as a
pamphleteer, had taken strong ground against the measures of the British Government injurious to American commerce, wrote as follows in 1808 about the practice of seizing British subjects in American ships: "That we, the people of America, should engage in ruinous warfare to support a rash opinion, that foreign sailors in our merchant ships are to be protected against the power of their sovereign, is downright madness." "Why not," he wrote again in 1813, while the war was raging, "waiving flippant debate, lay down the broad principle of national right, on which Great Britain takes her native seamen from our merchant ships? Let those who deny the right pay, suffer, and fight, to compel an abandonment of the claim. Men of sound mind will see, and men of sound principle will acknowledge, its existence." In his opinion, there was but one consistent course to be pursued by those who favored the war with Great Britain, which was to insist that she should, without compensation, surrender her claim. "If that ground be taken," he wrote, "the war [on our part] will be confessedly, as it is now impliedly, unjust." Morris was a man honorably distinguished in our troubled national history—a member of the Congress of the Revolution and of the Constitutional Convention, a trained lawyer, a practised financier, and an experienced diplomatist; one who throughout his public life stood high in the estimation of Washington, with whom he was in constant official and personal correspondence. It is to be added that those to whom he wrote were evidently in sympathy with his opinions.

So again Representative Gaston, of North Carolina, a member of the same political party as Morris, speaking from his seat in the House in February, 1814, maintained the British doctrine of inalienable allegiance. "Naturali-
GOUVERNEUR MORRIS.

From the painting by Merchant after Sully, in Independence Hall, Philadelphia.
zation granted in another country has no effect whatever to destroy the original primary allegiance." Even Administration speakers did not deny this, but they maintained that the native allegiance could be enforced only within its territorial limits, not on the high seas. While perfectly firm and explicit as to the defence of American seamen,—even to the point of war, if needful,—Gaston spoke of the British practice as a right. "If you cannot by substitute obtain an abandonment of the right, or practice, to search our vessels, regulate it so as to prevent its abuse; waiving for the present, not relinquishing, your objections to it." He expressed sympathy, too, for the desperate straits in which Great Britain found herself. "At a time when her floating bulwarks were her whole safeguard against slavery, she could not view without alarm and resentment the warriors who should have manned those bulwarks pursuing a more gainful occupation in American vessels. Our merchant ships were crowded with British seamen, most of them deserters from their ships of war, and all furnished with fraudulent protections to prove them Americans. To us they were not necessary." On the contrary, "they ate the bread and bid down the wages of native seamen, whom it was our first duty to foster and encourage." This competition with native seamen was one of the pleas likewise of the New England opposition, too much of which was obstinately and reprehensibly factious. "Many thousands of British seamen," said Governor Strong of Massachusetts, in addressing the Legislature, May 28, 1813, "deserted that service for a more safe and lucrative employment in ours." Had they not, "the high price for that species of labor would soon have induced a sufficient number of Americans to become seamen. It appears, therefore, that British seamen have been patronized at the expense of our own; and should Great Britain now consent to relinquish the right of taking her own subjects, it would be no advantage
to our native seamen; it would only tend to reduce their wages by increasing the numbers of that class of men."¹ Gaston further said, that North Carolina, though not a commercial state, had many native seamen; but, "at the moment war was declared, though inquiry was made, I could not hear of a single native seaman detained by British impressment."

It is desirable, especially in these days, when everything is to be arbitrated, that men should recognize both sides of this question, and realize how impossible it was for either party to acquiesce in any other authority than their own deciding between them. "As I never had a doubt," said Morris, "so I thought it a duty to express my conviction that British ministers would not, dared not, submit to mediation a question of essential right."² "The way to peace is open and clear," he said the following year. "Let the right of search and impressment be acknowledged as maxims of public law."³

These expressions, uttered in the freedom of private correspondence, show a profound comprehension of the constraint under which the British Government and people both lay. It was impossible, at such a moment of extreme national peril, to depart from political convictions engendered by the uniform success of a policy followed consistently for a hundred and fifty years. For Great Britain, the time had long since passed into a dim distance, when the national appreciation of the sea to her welfare was that of mere defence, as voiced by Shakespeare:

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¹ Niles' Register, vol. iv. p. 234. Author's italics.
³ Ibid., p. 560. Those unfamiliar with the subject should be cautioned that the expression "right of search" is confused here, not quite accurately, to searching for British subjects liable to impressment. This right the United States denied. The "right of search" to determine the nationality of the vessel, and the character of the voyage, was admitted to belligerents then, as it is now, by all neutrals.
COLONIAL CONDITIONS

England, hedged in with the main,
That water-walled bulwark, still secure
And confident from foreign purposes.¹

This little world,
This precious stone set in the silver sea,
Which serves it in the office of a wall,
Or as a most defensive to a house
Against the envy of less happier lands.²

By the middle of the seventeenth century, the perception of Great Britain’s essential need to predominate upon the sea had dawned upon men’s minds, and thence had passed from a vague national consciousness to a clearly defined national line of action, adopted first through a recognition of existing conditions of inferiority, but after these had ceased pursued without any change of spirit, and with no important changes of detail. This policy was formulated in a series of measures, comprehensively known as the Navigation Acts, the first of which was passed in 1651, during Cromwell’s Protectorate. In 1660, immediately after the Restoration, it was reaffirmed in most essential features, and thenceforward continued to and beyond the times of which we are writing. In form a policy of sweeping protection, for the development of a particular British industry,—the carrying trade,—it was soon recognized that, in substance, its success had laid the foundations of a naval strength equally indispensable to the country. Upon this ground it was approved even by Adam Smith, although in direct opposition to the general spirit of his then novel doctrine. While exposing its fallacies as a commercial measure, he said it exemplified one of two cases in which protective legislation was to be justified. "The defence of Great Britain, for example, depends very much upon the number of its sailors and shipping. The Act of Navigation therefore very properly endeavors to

¹ King John, Act II. Scene 1. ² King Richard II., Act II. Scene 1.
give the sailors and shipping of Great Britain the monopoly of the trade of their own country. . . . It is not impossible that some of the regulations of this famous Act may have proceeded from national animosity. They are as wise, however, as though they had all been dictated by the most deliberate wisdom. . . . The Act is not favorable to foreign commerce, nor to the opulence which can arise from that; but defence is of much more importance than opulence. The Act of Navigation is perhaps the wisest of all the commercial regulations of England.”

It became a dominant prepossession of British statesmen, even among Smith’s converts, in the conduct of foreign relations, that the military power of the state lay in the vast resources of native seamen, employed in its merchant ships. Even the wealth returned to the country, by the monopoly of the imperial markets, and by the nearly exclusive possession of the carrying trade, which was insured to British commerce by the elaborate regulations of the Act, was thought of less moment. “Every commercial consideration has been re-

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1 Inquiry into the Nature and Causes of the Wealth of Nations. Edited by J. E. Thorold Rogers. Oxford, 1888, pp. 35–38. In a subsequent passage (p. 178), Smith seems disposed somewhat to qualify the positive assertion here quoted, on the ground that the Navigation Act had not had time to exert much effect, at the period when some of the most decisive successes over the Dutch were won. It is to be observed, however, that a vigorous military government, such as Cromwell’s was, can assert itself in the fleet as well as in the army, creating an effective organization out of scanty materials, especially when at war with a commercial state of weak military constitution, like Holland. It was the story of Rome and Carthage repeated. Louis XIV. for a while accomplished the same. But under the faxy of a liberal popular government, which England increasingly enjoyed after the Restoration, naval power could be based securely only upon a strong, available, and permanent maritime element in the civil body politic: that is, on a mercantile marine.

As regards the working of the Navigation Act to this end, whatever may be argued as to the economical expediency of protecting a particular industry, there is no possible doubt that such an industry can be built up, to huge proportions, by sagacious protection consistently enforced. The whole history of protection demonstrates this, and the Navigation Act did in its day. It created the British carrying trade, and in it provided for the Royal Navy an abundant and accessible reserve of raw material, capable of being rapidly manufactured into naval seamen in an hour of emergency.
peatedly urged," wrote John Adams, the first United States Minister to Great Britain, "but to no effect: seamen, the Navy, and power to strike an awful blow to an enemy at the first outbreak of war, are the ideas which prevail." 1 This object, and this process, are familiar to us in these later days under the term "mobilization;" the military value of which, if rapidly effected, is well understood.

In this light, and in the light of the preceding experience of a hundred and fifty years, we must regard the course of the British Ministry through that period, extremely critical to both nations, which began when our War of Independence ended, and issued in the War of 1812. We in this day are continually told to look back to our fathers of the Revolutionary period, to follow their precepts, to confine ourselves to the lines of their policy. Let us then either justify the British ministries of Pitt and his successors, in their obstinate adherence to the traditions they had received, or let us admit that even ancestral piety may be carried too far, and that venerable maxims must be brought to the test of existing conditions.

The general movement of maritime intercourse between countries is commonly considered under two principal heads: Commerce and Navigation. The first applies to the interchange of commodities, however effected; the second, to their transportation from port to port. A nation may have a large commerce, of export and import, carried in foreign vessels, and possess little shipping of its own. This is at present the condition of the United States; and once, in far gone days, it was in great measure that of England. In such case there is a defect of navigation, consequent upon which there will be a deficiency of native seamen: of seamen attached to the country and its interests, by ties of birth or habit. For maritime war such a state will have but small resources of

adaptable naval force; a condition dangerous in proportion to its dependence upon control of the sea. Therefore the attention of British statesmen, during the period in which the Navigation Act flourished, fastened more and more upon the necessity of maintaining the navigation of the kingdom, as distinguished from its commerce. Subsidiary to the movement of commerce, there is a third factor, relatively stationary, the consideration of which is probably less familiar now than it was to the contemporaries of the Navigation Act, to whom it was known under the name *entrepôt*. This term was applied to those commercial centres — in this connection maritime centres — where goods accumulate on their way to market; where they are handled, stored, or transshipped. All these processes involve expenditure, which inures to the profit of the port, and of the nation; the effect being the exact equivalent of the local gains of a railroad centre of the present day. It was a dominant object with statesmen of the earlier period to draw such accumulations of traffic to their own ports, or nations; to force trade, by ingenious legislation, or even by direct coercion, to bring its materials to their own shores, and there to yield to them the advantages of the *entrepôt*. Thus the preamble to one of the series of Navigation Acts states, as a direct object, the "making this Kingdom a staple"[^1] [emporium], not only of the commodities of our plantations, but also of the commodities of other countries, and places, for the supply of the plantations."[^2] An instructive example of such indirect effort was the institution of free ports; ports which, by exemption from heavy customary tolls, or by the admission of foreign ships or goods, not permitted entrance to other national harbors, invited the merchant to collect in them, from sur-

[^1]: This primary meaning of the word “staple” seems to have disappeared from common use, in which it is now applied to the commercial articles, the concentration of which at a particular port made that port a “staple.”

rounding regions, the constituents of his cargoes. On the other hand, the Colonial System, which began to assume importance at the time of the Navigation Act, afforded abundant opportunity for the compulsion of trade. Colonies being part of the mother country, and yet transoceanic with reference to her, maritime commerce between them and foreign communities could by direct legislation be obliged first to seek the parent state, which thus was made the distributing centre for both their exports and imports.

For nearly three centuries before the decisive measures taken by the Parliament of the Commonwealth, the development and increase of English shipping, by regulation of English trade, had been recognized as a desirable object by many English rulers. The impulse had taken shape in various enactments, giving to English vessels privileges, exclusive or qualified, in the import or export carriage of the kingdom; and it will readily be understood that the matter appeared of even more pressing importance, when the Navy depended upon the merchant service for ships, as well as for men; when the war fleets of the nation were composed of impressed ships, as well as manned by impressed sailors. These various laws had been tentative in character. Both firmness of purpose and continuity of effort were lacking to them; due doubtless to the comparative weakness of the nation in the scale of European states up to the seventeenth century. During the reigns of the first two Stuarts, this weakness was emphasized by internal dissensions; but the appreciation of the necessity for some radical remedy to the decay of English naval power remained and increased. To this conviction the ship-money of Charles the First bears its testimony; but it was left to Cromwell and his associates to formulate the legislation, upon which, for two centuries to come, the kingdom was thought to depend, alike for the growth of
its merchant shipping and for the maintenance of the navy. All that preceded has interest chiefly as showing the origin and growth of an enduring national conviction, with which the United States came into collision immediately after achieving independence.

The ninth of October, 1661, is the date of the passing of the Act, the general terms of which set for two hundred years the standard for British legislation concerning the shipping industry. The title of the measure, "Goods from foreign ports, by whom to be imported," indicated at once that the object in view was the carrying trade; navigation, rather than commerce. Commerce was to be manipulated and forced into English bottoms as an indispensable agency for reaching British consumers. At this time less than half a century had elapsed since the first English colonists had settled in Massachusetts and Virginia. The British plantation system was still in its beginnings, alike in America, Asia, and Africa. When the then recent Civil War ended, in the overthrow of the royal power, it had been "observed with concern that the merchants of England had for several years usually freighted Dutch ships for fetching home their merchandise, because the freights were lower than in English ships. Dutch ships, therefore, were used for importing our own American products, while English ships lay rotting in harbor."¹ "Notwithstanding the regulations made for confining that branch of navigation to the mother country, it is said that in the West India Islands there used, at this time, out of forty ships to be thirty-eight ships Dutch bottoms."² English mariners also, for want of employment, went into the Dutch service. In this way seamen for the navy disappeared, just as, at a later day, they did into the merchant shipping of the United States.

The one great maritime rival of England, Holland, had thus engrossed, not only the carrying trade of Europe at large, most of which, from port to port, was done by her seamen, but that of England as well. Even of the English coasting trade much was done by Dutch ships. Under this competition, the English merchant marine was dwindling, and had become so inadequate that, when the exclusion of foreigners was enforced by the Act, the cry at once arose in the land that the English shipping was not sufficient for the work thus thrust upon it. "Although our own people have not shipping enough to import from all parts what they want, they are needlessly debarred from receiving new supplies of merchandise from other nations, who alone can, and until now did, import it." 1 The effect of this decadence of shipping upon the resources of men for the navy is apparent.

The existence of strained relations between England and Holland facilitated the adoption of the first Navigation Act, which, as things were, struck the Dutch only; they being the one great carrying community in Europe. Although both the letter and the purpose of the new law included in its prohibitions all foreign countries, the commercial interests of other states were too slight, and their commercial spirit too dull, to take note of the future effect upon themselves; whether absolutely, or in relation to the maritime power of Great Britain, the cornerstone of which was then laid. This first Act directed that no merchandise from Asia, Africa, or America, including therein English " planteins, " as the colonies were then styled, 2 should be

2 Reeves, writing in 1793, says that there seemed then no distinction of meaning between " plantation " and " colony. " Plantation was the earlier term; " colony " did not come much into use till the reign of Charles II., and it seems to have denoted the political relation. " (p. 109.) By derivation both words express the idea of cultivating new ground, or establishing a new settlement; but " plantation " seems to associate itself more with the industrial beginnings, and " colony " with the formal regulative purpose of the parent state.
imported into England in other than English-built ships, belonging to English subjects, and of which "the master and mariners are also, for the most part of them, of the people of this commonwealth." This at once reserved a large part of the external trade to English ships; and also, by the regulation of the latter, constituted them a nursery for English seamen. To the general tenor of this clause, confining importation wholly to English vessels, an exception was made for Europe only; importations from any part of which was permitted to "such foreign ships and vessels as do truly and properly belong to the people of that country or place of which the said goods are the growth, production, or manufacture."  

Foreign merchants might therefore import into England the products of their own country; but both they and English vessels must ship such cargoes in the country of origin, not at any intermediate port. The purpose of these provisos, especially of the second, was to deprive Holland of the profit of the middleman, or the entrepôt, which she had enjoyed hitherto by importing to herself from various regions, warehousing the goods, and then re-exporting. The expense of these processes, pocketed by Dutch handlers, and the exaction of any dues levied by the Dutch Treasury, reappeared in increased cost to foreign consumers. This appreciation of the value of the entrepôt underlay much of the subsequent colonial regulation of England, and actuated the famous Orders in Council of 1807, which were a principal factor in causing the War of 1812. A second effect of these restrictions, which in later times was deemed even more important than the pecuniary gain, was to compel English ships to go long voyages, to the home countries of the cargoes they sought,

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1 The Navigation Acts of 1651, 1660, 1662, and 1663, as well as other subsequent measures of the same character, can be found, conveniently for American readers, in MacDonald's Select Charters Illustrative of American History. Macmillan, New York. 1899.
instead of getting them near by in Dutch depots. This
gave a corresponding development to the carrying trade—
the navigation — of the Commonwealth; securing greater
employment for ships and seamen, increasing both their
numbers and experience, and contributing thereby to the
resources of the navy in men. “A considerable carrying
trade would be lost to us, and would remain with the
merchants of Holland, of Hamburg, and other maritime
towns, if our merchants were permitted to furnish them-
selves by short voyages to those neighboring ports, and
were not compelled to take upon themselves the burden
of bringing these articles from the countries where they
were produced.”

The Act of 1660, officially known as that of 12 Charles
II., modified the provisos governing the European trade.
The exclusion of goods of European origin from all trans-
portation to England, save in ships of their own nation,
was to some extent removed. This surrender was cen-
sured by some, explicitly, because it again enabled the
Dutch to collect foreign articles and send them to Eng-
land, thereby “permitting competition with this country
in the longer part of the voyage;” to the injury, there-
fore, of British navigation. The remission, though real,
was less than appeared; for the prohibitions of the Com-
monwealth were still applied to a large number of specified
articles, the produce chiefly of Russia and Turkey, which
could be imported only in their national ships, or those of
England. As those countries had substantially no long
voyage shipping, trade with them was to all practical pur-
poses confined to English vessels. The concession to
foreign vessels, such as it was, was further qualified by

2 For instance, in 1769, eighteen hundred and forty vessels passed the
Sound in the British trade. Of these only thirty-five were Russian. Con-
siderably more than half of the trade of St. Petersburg with Europe at large
was done in British ships. Macpherson, vol. iii. p. 493.
heavier duties, called aliens’ duties, upon their cargoes: and by the requirement that three-fourths of their crew, entering English ports, should be of the same nationality as the ship. The object of this regulation was to prevent the foreign state from increasing its tonnage, by employing seamen other than its own. This went beyond mere protection of English vessels, and was a direct attack, though by English municipal law, upon the growth of foreign shipping.

This purpose indeed was authoritatively announced from the bench, construing the Act in the decision of a specific case. “Parliament had wisely foreseen that, if they restrained the importation or exportation of European goods, unless in our own ships, and manned with our own seamen, other states would do the same; and this, in its consequences, would amount to a prohibition of all such goods, which would be extremely detrimental to trade, and in the end defeat the very design of the Act. It was seen, however, that many countries in Europe, as France, Spain, and Italy, could more easily buy ships than build them; that, on the other hand, countries like Russia, and others in the North, had timber and materials enough for building ships, but wanted sailors. It was from a consideration of this inaptness in most countries to accomplish a complete navigation, that the Parliament prohibited the importation of most European goods, unless in ships owned and navigated by English, or in ships of the build of and manned by sailors of that country of which the goods were the growth. The consequence would be that foreigners could not make use of ships they bought, though English subjects might. This would force them to have recourse to our shipping, and the general intent of the Act, to secure the carrying trade to the English, would be answered as far as it possibly could.” It was therefore ruled that the tenor of the Act forbade foreigners to import
to England in ships not of their own building; and, adds the reporter, "This exposition of the Act of Navigation is certainly the true one." Having thus narrowed foreign competition to the utmost extent possible to municipal statutes, Parliament made the carrying industry even more exclusively than before a preserve for native seamen. The Commonwealth's requirement, that "the most" of the crew should be English, was changed to a definite prescription that the master and three-fourths of the mariners should be so.

Under such enactments, with frequent modification of detail, but no essential change of method, British shipping and seamen continued to be "protected" against foreign competition down to and beyond the War of 1812. In this long interval there is no change of conception, nor any relaxation of national conviction. The whole history affords a remarkable instance of persistent policy, pursued consecutively for five or six generations. No better evidence could be given of its hold upon the minds of the people, or of the serious nature of the obstacle encountered by any other state that came into collision with it; as the United States during the Napoleonic period did, in matters of trade and carriage, but especially in the closely related question of Impressment.

Whether the Navigation Act, during its period of vigor, was successful in developing the British mercantile marine and supporting the British Navy has been variously argued. The subsequent growth of British navigation is admitted; but whether this was the consequence of the measure itself has been disputed. It appears to the writer that those who doubt its effect in this respect allow their convictions of the strength of economical forces to blind them to the power of unremitting legislative action. To divert national activities from natural channels into arti-

1 Opinion of Chief Baron Parker, quoted by Reeves, pp. 187-189.
ficial may be inexpedient and wasteful; and it may be reasonable to claim that ends so achieved are not really successes, but failures. Nevertheless, although natural causes, till then latent, may have conspired to further the development which the Navigation Act was intended to promote, and although, since its abolition, the same causes may have sufficed to sustain the imposing national carrying trade built up during its continuance, it is difficult to doubt the great direct influence of the Act itself; having in view the extent of the results, as well as the corroborative success of modern states in building up and maintaining other distinctly artificial industries, sometimes to the injury of the natural industries of other peoples, which the Navigation Act also in its day was meant to effect.

The condition of British navigation in 1651 has been stated. The experience of the remaining years of the Protectorate appears to have confirmed national opinion as to the general policy of the Act, and to have suggested the modifications of the Restoration. To trace the full sequence of development, in legislation or in shipping, is not here permissible; the present need being simply to give an account, and an explanation, of the strength of a national prepossession, which in its manifestation was a chief cause of the events that are the theme of this book. A few scattered details, taken casually, seem strikingly to sustain the claims of the advocates of the system, bearing always in mind the depression of the British shipping industry before the passage of the law. In 1728 there arrived in London from all parts beyond sea 2052 ships, of which only 213 were under foreign flags; less than one in nine. In Liverpool, in 1765, of 1533 entered and cleared, but 135 were foreign; in Bristol, the same year, of 701 but 91 foreign. Of the entire import of that year only 28 per cent, in money value, came from Europe;
the carriage of the remaining 72 per cent was confined to British ships. It may, of course, be maintained that this restriction of shipping operated to the disadvantage of the commerce of the kingdom; that there was direct pecuniary loss. This would not be denied, for the object of the Act was less national gain than the upbuilding of shipping as a resource for the navy. Nevertheless, at this same period, in 1764, of 810 ships entering the great North German commercial centre, Hamburg, 267 — over one-third — were British; the Dutch but 146, the Hamburgers themselves 157. A curious and suggestive comparison is afforded by the same port in 1769. From the extensive, populous, and fruitful country of France, the entrepôt of the richest West Indian colony, Santo Domingo, there entered Hamburg 203 ships, of which not one was French; whereas from Great Britain there came a slightly larger total, 216, of which 178 were British.

Such figures seem to substantiate the general contemporary opinion of the efficacy of the Navigation Act, and to support the particular claim of a British writer of the day, that the naval weakness of Holland and France was due to the lack of similar measures. "The Dutch have indeed pursued a different policy, but they have thereby fallen to a state of weakness, which is now the object of pity, or of contempt. It was owing to the want of sailors, and not to the fault of their officers, that the ten ships of the line, which during their late impudent quarrel with Britain had been stipulated to join the French fleet, never sailed."¹ "The French Navy, which at all times depended chiefly upon the West India trade for a supply of seamen, must have been laid up, if the war (of American Independence) had continued another year."² Whatever the accuracy of

¹ Chalmers, Opinions on Interesting Subjects of Public Law and Commercial Policy Arising from American Independence, p. 32.
² Ibid., p. 56.
these statements, — and they are those of a well-informed man, — they represented a general conviction, not in Great Britain only but in Europe, of the results of the Navigation legislation. A French writer speaks of it as the source of England’s greatness, and sums up his admiration in words which recognize the respective shares of natural advantages and sagacious supervision in the grand outcome. “Called to commerce by her situation, it became the spirit of her government and the lever of her ambition. In other monarchies, it is private individuals who carry on commerce; but in that happy constitution it is the state, or the nation in its entirety.”

In Great Britain itself there was substantial unanimity. This colored all its after policy towards its lately rebellious and now independent children, who as carriers had revived the once dreaded rivalry of the Dutch. To quote one writer, intimately acquainted with the whole theory and practice of the Navigation Acts, they “tend to the establishment of a monopoly; but our ancestors considered the defence of this island from foreign invasion as the first law in the national policy. Judging that the dominion of the land could not be preserved without possessing that of the sea, they made every effort to procure to the nation a maritime power of its own. They wished that the merchants should own as many ships, and employ as many mariners as possible. To induce, and sometimes to force, them to this application of their capital, restrictions and prohibitions were devised. The interests of

1 A French naval historian supports them, speaking of the year 1781: “The considerable armaments made since 1778 had exhausted the resources of personnel. To remedy the difficulty the complements were filled up with coast-guard militia, with marine troops until then employed only to form the guards of the ships, and finally with what were called ‘novices volontaires,’ who were landsmen recruited by bounties. It may be imagined what crews were formed with such elements.” — Troude, Batailles Navales, vol. ii. p. 262.

2 Raynal, Histoire Philosophique des deux Indes, vol. vii. p. 287 (Edition 1820). Raynal’s reputation is that of a plagiarist, but his best work is attributed to far greater names of his time. He died in 1796.
commerce were often sacrificed to this object." Yet he claims that in the end commerce also profited, for "the increase in the number of ships became a spur to seek out employment for them." In 1792, British registered shipping amounted to 1,365,000 tons, employing 80,000 seamen. Of these, by common practice, two-thirds — say 50,000 — were available for war, during which it was the rule to relax the Act so far as to require only one-fourth of the crew to be British. "That the increase in our shipping is to be ascribed to our navigation system appears in the application of it to the trade of the United States. When those countries were part of our plantations, a great portion of our produce was transported to Great Britain and our West India Islands in American bottoms; they had a share in the freight of sugars from those islands to Great Britain; they built annually more than one hundred ships, which were employed in the carrying trade of Great Britain; but since the Independence of those states, since their ships have been excluded from our plantations, and that trade is wholly confined to British ships, we have gained that share of our carrying trade from which they are now excluded."¹ In corroboration of the same tendency, it was also noted during the war with the colonies, that "the shipyards of Britain in every port were full of employment, so that new yards were set up in places never before so used."² That is, the war, stopping the intrusion of American colonists into the British carrying trade, just as the Navigation Act prohibited that of foreign nations, created a demand for British ships to fill the vacancy; a result perfectly in keeping with the whole object of the navigation system. But when hostilities with France began again in 1793, and lasted with slight intermission for twenty years, the drain of the navy for seamen so limited the development of the Brit-

¹ Reeves, pp. 430-434.  
ish navigation as to afford an opening for competition, of which American maritime aptitude took an advantage, threatening British supremacy and arousing corresponding jealousy.

Besides the increase of national shipping, the idea of entrepot received recognition in both the earlier and later developments of the system. Numerous specified articles, produced in English colonies, could be carried nowhere but to England, Ireland, or another colony, where they must be landed before going farther. Because regularly listed, such articles were technically styled "enumerated:"

"enumerated commodities being such as must first be landed in England before being taken to foreign parts." 1

From this privilege Ireland was soon after excepted; enumerated goods for that country having first to be landed in England. 2 Among such enumerated articles, tobacco and rice held prominent places and illustrate the system. Of the former, in the first half of the eighteenth century, it was estimated that on an average seventy-two million pounds were sent yearly to England, of which fifty-four million were re-exported; an export duty of sixpence per pound being then levied, besides the cost of handling. Rice, made an enumerated article in 1706, exemplifies aptly the ideas which influenced the multifold manipulation of the nation's commerce in those days. The restriction was removed in 1731, so far as to permit this product to be sent direct from South Carolina and Georgia to any part of Europe south of Cape Finisterre; but only in British ships navigated according to the Act. In this there is a partial remission of the entrepot exaction, while the nursing of the carrying trade is carefully guarded. The latter was throughout the superior interest, inseparably connected in men's minds with the support of the navy. At a later

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date, West India sugar received the same indulgence as rice; it being found that the French were gaining the general European market, by permitting French vessels to carry the products of their islands direct to foreign continental ports. Rice and sugar for northern Europe, however, still had to be landed in England before proceeding.

The colonial trade in general was made entirely subservient to the support and development of English shipping, and to the enrichment of England, as the half-way storehouse. Into England foreign goods could be imported in some measure by foreign vessels, though under marked restrictions and disabilities; but into the colonies it was early forbidden to import any goods, whatever their origin, except in English-built ships, commanded and manned in accordance with the Act. Further, even in such ships they must be imported from England itself, not direct; not from the country of origin. The motive for this statute of 1663\(^1\) is avowed in the preamble: to be with a view of maintaining a greater correspondence and kindness between them and the mother country, keeping the former in a firmer dependence upon the latter, and to make this kingdom the staple both of the commodities of the plantations, and of other countries in order to supply them. Further, it was alleged that it was the usage of nations to keep their plantation trade to themselves.\(^2\) In compensation for this subjection of their trade to the policy of the mother country, the supplying of the latter with West India products was reserved to the colonists.

Thus, goods for the colonies, as well as those from the colonies, from or to a foreign country, — from or to France, for example, — must first be landed in England before proceeding to the ultimate destination. Yet even this cherished provision, enforced against the foreigner, was made to subserve the carrying trade — the leading object; for,

\(^1\) Officially, Statute of 13 Charles II. \(^2\) Reeves, p. 50.
upon re-exportation to the colonies, there was allowed a drawback of duties paid upon admission to England, and permanent upon residents there. The effect of this was to make the articles cheaper in the colonies than in England itself, and so to induce increased consumption. It was therefore to the profit of the carrier; and the more acceptable, because the shipping required to bring home colonial goods was much in excess of that required for outward cargoes, to the consequent lowering of outward freights. "A regard to the profits of freights," writes a contemporary familiar with the subject, "as much as the augmentation of seamen, dictated this policy." 1 From the conditions, it did not directly increase the number of seamen; but by helping the shipping merchant it supported the carrying industry as a whole.

Upon the legislative union of Scotland with England, in 1707, this entrepôt privilege, with all other reserved advantages of English trade and commerce, was extended to the northern kingdom, and was a prominent consideration in inducing the Scotch people to accept a political change otherwise distasteful, because a seeming sacrifice of independence. Before this time they had had their own navigation system, modelled on the English; the Acts of the two parliaments embodying certain relations of reciprocity. Thenceforward, the Navigation Act is to be styled more properly a British, than an English, measure; but its benefits, now common to all Great Britain, were denied still to Ireland.

It will be realized that the habit of receiving exclusive favors at the expense of a particular set of people—the colonist and the foreigner—readily passed in a few generations into an unquestioning conviction of the propriety, and of the necessity, of such measures. It should be easy now for those living under a high protective tariff to un-

1 Chalmers, Opinions on Interesting Subjects, p. 28.
understand that, having built up upon protection a principal national industry,—the carrying trade,—involving in its ramifications the prosperity of a large proportion of the wealth-producers of the country, English statesmen would fear to touch the fabric in any important part; and that their dread would be intensified by the conviction, universally held, that to remove any of these artificial supports would be to imperil at the same time the Royal Navy, the sudden expansion of which, from a peace to a war footing, depended upon impressment from the protected merchant ships. It will be seen also that with such precedents of entrepôt, for the nourishing of British commerce, it was natural to turn to the same methods,—although in a form monstrously exaggerated,—when Napoleon by his decrees sought to starve British commerce to death. In conception and purpose, the Orders in Council of 1807 were simply a development of the entrepôt system. Their motto, "No trade save through England."—the watchword of the ministry of Canning, Castlereagh, and Perceval, 1807—12,—was merely the revival towards the United States, as an independent nation, of the methods observed towards her when an assemblage of colonies, forty years before; the object in both cases being the welfare of Great Britain, involved in the monopoly of an important external commerce, the material of which, being stored first in her ports, paid duty to her at the expense of continental consumers.

Nor was there in the thought of the age, external to Great Britain, any corrective of the impressions which dominated her commercial policy. "Commercial monopoly," wrote Montesquieu, "is the leading principle of colonial intercourse;" and an accomplished West Indian, quoting this phrase about 1790, says: "The principles by which the nations of Europe were influenced were precisely the same: (1) to secure to themselves respectively the most important productions of their colonies, and (2) to retain
to themselves exclusively the advantage of supplying the colonies with European goods and manufactures." 1 "I see," wrote John Adams from France, in 1784, "that the French merchants regard their colonies as English merchants considered us twenty years ago." The rigor of the French colonial trade system had been relaxed during the War of American Independence, as was frequently done by all states during hostilities; but when Louis XVI., in 1784, sought to continue this, though in an extremely qualified concession, allowing American vessels of under sixty tons a limited trade between the West Indies and their own country, the merchants of Marseilles, Bordeaux, Rochelle, Nantes, St. Malo, all sent in excited remonstrances, which found support in the provincial parliaments of Bordeaux and Brittany. 2

A further indication of the economical convictions of the French people, and of the impression made upon Europe generally by the success of the British Navigation Act, is to be seen in the fact that in 1794, under the Republic, the National Convention issued a decree identical in spirit, and almost identical in terms, with the English Act of 1651. In the latter year, said the report of the Committee to the Convention, "one-half the navigation of England was carried on by foreigners. She has imperceptibly retaken her rights. Towards the year 1700 foreigners possessed no more than the fifth part of this navigation; in 1725 only a little more than the ninth; in 1750 a little more than a twelfth; and in 1791 they possessed only the fourteenth part of it." 3 It is perhaps unnecessary to add that the colonial system of Spain was as rigid as that of Great Britain, though far less capably administered. So univer-

3 Compare with Sheffield, Observations on the Commerce of the American States (Edition February, 1784), p. 137, note: from which, indeed, these figures seem to have been taken, or from some common source.
sai was the opinion of the day as to the relation of colonies to navigation, that a contemporary American, familiar with the general controversy, wrote: "Though speculative politicians have entertained doubts in regard to favorable effects from colonial possessions, taking into view the expenses of their improvement, defence, and government, no question has been made but that the monopoly of their trade greatly increases the commerce of the nations to which they are appurtenant."\(^1\) Very soon after the adoption of the Constitution, the Congress of the United States, for the development of the carrying trade, enacted provisions analogous to the Navigation Act, so far as applicable to a nation having no colonies, but with large shipping and coasting interests to be favored.

To such accepted views, and to such traditional practice, the independence of the thirteen British colonies upon the American continent came not only as a new political fact, but as a portentous breach in the established order of things. As such, it was regarded with uneasy jealousy by both France and Spain; but to Great Britain it was doubly ominous. Not only had she lost a reserved market, singly the most valuable she possessed, but she had released, however unwillingly, a formidable and recognized rival for the carrying trade, the palladium of her naval strength. The market she was not without hopes of regaining, by a compulsion which, though less direct, would be in effect as real as that enforced by colonial regulation; but the capacity of the Americans as carriers rested upon natural conditions not so easy to overcome. The difficulty of the problem was increased by the fact that the governments of the world generally were awaking to the disproportionate advantages Great Britain had been reaping from them for more than a century, during which they had

\(^{1}\) Coxe’s *View of the United States of America*, Philadelphia, 1794, p. 330.
listlessly acquiesced in her aggressive absorption of the carriage of the seas. America could count upon their sympathies, and possible co-operation, in her rivalry with the British carrier. "It is manifest," wrote Coxe in 1794, "that a prodigious and almost universal revolution in the views of nations has taken place with regard to the carrying trade." When John Adams spoke of the United States retaliating upon Great Britain, by enacting a similar measure of its own, the minister of Portugal, then a country of greater weight than now, replied: "Not a nation in Europe would suffer a Navigation Act to be made by any other at this day. That of England was made in times of ignorance, when few nations cultivated commerce, and no country but she understood or cared anything about it, but now all courts are attentive to it;" 1 so much so, indeed, that it has been said this was the age of commercial treaties. It was the age also of commercial regulation, often mistaken and injurious, which found its ideals largely in the Navigation Act of Great Britain, and in the resultant extraordinary processes of minute and comprehensive interference, with every species of commerce, and every article of export or import; for, while the general principles of the Navigation Act were few and simple enough, in application they entailed a watchful and constant balancing of advantages by the Board of Trade, and a consequent manipulation of the course of commerce,—a perfectly idealized and sublimated protection. The days of its glory, however, were passing fast. Great Britain was now in the position of one who has been first to exploit a great invention, upon which he has an exclusive patent. Others were now entering the field, and she must prepare for competition, in which she most of all

1 Works of John Adams, vol. viii. p. 341. Adams says again, himself: "It is more and more manifest every day that there is, and will continue, a general scramble for navigation. Carrying trade, ship-building, fisheries, are the cry of every nation."—Vol. viii. p. 342.
feared those of her own blood, the children of her loins; for the signs of the menacing conditions following the War of Independence had been apparent some time before the revolt of the colonies gained for them liberty of action, heretofore checked in favor of the mother country. In these conditions, and in the national sentiment concerning them, are to be found the origin of a course of action which led to the War of 1812.

Under the Navigation Act, and throughout the colonial period, the transatlantic colonies of Great Britain had grown steadily; developing a commercial individuality of their own, depending in each upon local conditions. The variety of these, with the consequent variety of occupations and products, and the distance separating all from the mother country, had contributed to develop among them a certain degree of mutual dependence, and consequent exchange; the outcome of which was a commercial system interior to the group as a whole, and distinct from the relations to Great Britain borne by them individually and collectively. There was a large and important intercolonial commerce, consistent with the letter of the Navigation Act, as well as a trade with Great Britain; and although each of these exerted an influence upon the other, it was indirect and circuitous. The two were largely separate in fact, as well as in idea; and the interchange between the various colonies was more than double that with the mother country. It drew in British as well as American seamen, and was considered thus to entail the disadvantage that, unless America were the scene of war, the crews there were out of reach of impressment; that measure

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2 From an official statement, made public in 1784, it appears that in the year 1770 the total trade, inward and outward, of the colonies on the American Continent, amounted to 750,346 tons. Of this 92 per cent was coastwise; to other members of the group: 27 with Great Britain and Ireland; and 11 with Southern Europe. Bermuda and the Bahamas, inconsiderable as to trade, were returned among continental colonies by the Custom House. — Sheffield, Commerce of the American States, Table VII.
being too crude and unsystematic to reach effectively so distant a source of supply. Curiously enough, also, by an act passed in the reign of Queen Anne, seamen born in the American colonies were exempted from impressment.¹

“During the late Civil War (of American Independence) it has been found difficult sufficiently to man our fleet, from the seamen insisting that, since they had been born in America, they could not be pressed to serve in the British navy.”² In these conditions, and especially in the difficulty of distinguishing the place of birth by the language spoken, is seen the foreshadowing of the troubles attending the practice of Impressment, after the United States had become a separate nation.

The British American colonies were divided by geographical conditions into two primary groups: those of the West India Islands, and those of the Continent. The common use of the latter term, in the thought and speech of the day, is indicated by the comprehensive adjective “Continental,” familiarly applied to the Congress, troops, currency, and other attributes of sovereignty, assumed by the revolted colonies after their declaration of independence. Each group had special commercial characteristics—in itself, and relatively to Great Britain. The islands, whatever their minor differences of detail, or their mutual jealousies, or even their remoteness from one another,—Jamaica being a thousand miles from her eastern sisters,—were essentially a homogeneous body. Similarity of latitude and climate induced similarity of social and economical conditions; notably in the dependence on slave labor, upon which the industrial fabric rested. Their products, among which sugar and coffee were the most important, were such as Europe did not yield; it was therefore to their advantage to expend labor upon these wholly, and to depend upon external sources for supplies of all kinds,

¹ Chalmers, Opinions, p. 73.
² Ibid., p. 18.
including food. Their exports, being directed by the Navigation Act almost entirely upon Great Britain, were, in connection with Virginia tobacco, the most lucrative of the "enumerated" articles which rendered tribute to the entrepôt monopoly of the mother country. It was in this respect particularly, as furnishing imports to be handled and re-exported, that the islands were valuable to the home merchants. To the welfare of the body politic they contributed by their support of the carrying trade; for the cargoes, being bulky, required much tonnage, and the entire traffic was confined to British ships, manned three-fourths by British seamen. As a market also the islands were of consequence; all their supplies coming, by law, either from or through Great Britain, or from the continental colonies. Intercourse with foreign states was prohibited, and that with foreign colonies allowed only under rare and disabling conditions. But although the West Indies thus maintained a large part of the mother country's export trade, the smallness of their population, and the simple necessities of the slaves, who formed the great majority of the inhabitants, rendered them as British customers much inferior to the continental colonies; and this disparity was continually increasing, for the continent was growing rapidly in numbers, wealth, and requirements. In the five years 1744-48, the exports from Great Britain to the two quarters were nearly equal; but a decade later the continent took double the amount that the islands demanded. The figures quoted for the period 1754-58 are: to the West Indies, £3,765,000; to North America, £7,410,000. In the five years ending 1774 the West Indies received £6,748,095; the thirteen continental colonies, £13,660,180.

Imports from the continent also supported the carrying

trade of Great Britain, but not to an extent proportionate to those from the islands; for many of the continental colonies were themselves large carriers. The imports to them, being manufactured articles, less bulky than the exports of the islands, also required less tonnage. The most marked single difference between the West India communities and those of the continent was that the latter, being distributed on a nearly north and south line, with consequent great divergences of climate and products, were essentially not homogeneous. What one had, another had not. Such differences involve of course divergence of interests, with consequent contentions and jealousies, the influence of which was felt most painfully prior to the better Union of 1789, and never can wholly cease to act: but, on the other hand, it tends also to promote exchange of offices, where need and facility of transport combine to make such exchange beneficial to both. That the intercourse between the continental colonies required a tonnage equal to that employed between them and the West Indies,—testified by the return of 1770 before quoted,—shows the existence of conditions destined inevitably to draw them together. The recognition of such mutual dependence, when once attained, furthers the practice of mutual concession for the purpose of combined action. Consequently, in the protracted struggle between the centripetal and centrifugal forces in North America, the former prevailed, though not till after long and painful wavering.

While thus differing greatly among themselves in the nature of their productions, and in their consequent wants, the continental colonists as a whole had one common characteristic. Recent occupants of a new, unimproved, and generally fertile country, they turned necessarily to the cultivation of the soil as the most remunerative form of activity, while for manufactured articles they depended

\footnote{Ante, p. 31 (note).}
mainly upon external supplies, the furnishing of which Great Britain reserved to herself. For these reasons they afforded the great market which they were to her, and which by dint of habit and of interest they long continued to be. But, while thus generally agricultural by force of circumstances, the particular outward destinations of their surplus products varied. Those of the southern colonies, from Maryland to Georgia, were classed as “enumerated,” and, with the exception of the rice of South Carolina and Georgia, partially indulged as before mentioned, must be directed upon Great Britain. Tobacco, cotton, indigo, pitch, tar, turpentine, and spars of all kinds for ships, were specifically named, and constituted much the larger part of the exports of those colonies. These were carried also chiefly by British vessels, and not by colonial. The case was otherwise in the middle colonies, Pennsylvania, New York, New Jersey, and in Connecticut and Rhode Island of the eastern group. They were exporters of provisions,—of grain, flour, and meat, the latter both as live stock and salted; of horses also. As the policy of the day protected the British farmer, these articles were not required to be sent to Great Britain; on the contrary, grain was not allowed admission except in times of scarcity, determined by the price of wheat in the London market. The West Indies, therefore, were the market of the middle colonies; the shortness of the voyage, and the comparatively good weather, after a little southing had been gained, giving a decisive advantage over European dealers in the transportation of live animals. Flour also, because it kept badly in the tropics, required constant carriage of new supplies from sources near at hand. Along with provisions the continental vessels took materials for building and cooperage, both essential to the industry of the islands,—to the housing of the inhabitants, and to the transport of their sugar, rum, and molasses. In short, so
great was the dependence of the islands upon this trade, that a well-informed planter of the time quotes with approval the remark of "a very competent judge," that, "if the continent had been wholly in foreign hands, and England wholly precluded from intercourse with it, it is very doubtful whether we should now have possessed a single acre in the West Indies." ¹

Now this traffic, while open to all British shipping, was very largely in the hands of the colonists, who built ships decidedly cheaper than could be done in England, and could distribute their tonnage in vessels too small to brave the Atlantic safely, but, from their numbers and size, fitted to scatter to the numerous small ports of distribution, which the badness of internal communications rendered advantageous for purposes of supply. A committee of the Privy Council of Great Britain, constituted soon after the independence of the United States to investigate the conditions of West India trade, reported that immediately before the revolt the carriage between the islands and the continent had occupied 1610 voyages, in vessels aggregating 115,684 tons, navigated by 9718 men. These transported what was then considered "the vast" American cargo, of £500,000 outward and £400,000 inward. But the ominous feature from the point of view of the Navigation Act was that this was carried almost wholly in American bottoms.² In short, not to speak of an extensive practice of smuggling, facilitated by a coast line too long and indented to be effectually watched,—mention of which abounds in contemporary annals,³—a very valuable part of the British carrying trade was in the hands of the middle colonists, whose activity, however, did not stop even there;

² Chalmers, Opinions, p. 133.
³ See, for instance, the Golden Papers, Proceedings N. Y. Historical Society, 1877. There is in these much curious economical information of other kinds.
for, not only did they deal with foreign West Indies,\(^1\) but the cheapness of their vessels, owing to the abundance of the materials, permitted them to be used also to advantage in a direct trade with southern Europe, their native products being for the most part "not enumerated." As early as 1731, Pennsylvania employed eight thousand tons of shipping, while the New England colonies at the same time owned forty thousand tons, distributed in six hundred vessels, manned by six thousand seamen.

The New Englanders, like their countrymen farther south, were mostly farmers; but the more rugged soil and severer climate gave them little or no surplus for export. For gain by traffic, for material for exchange, they therefore turned to the sea, and became the great carriers of America, as well as its great fishers. An English authority, writing of the years immediately preceding the War of Independence, states that most of the seamen sailing out of the southern ports were British; from the middle colonies, half British and half American; but in the New England shipping he admits three-fourths were natives.\(^2\) This tendency of British seamen to take employment in colonial ships is worthy of note, as foreshadowing the impressment difficulties of a later day. These, like most of the disagreements which led to the War of 1812, had their origin in ante-revolutionary conditions. For example, Commodore Palliser, an officer of rank, commanding the Newfoundland station in 1767, reported to the Admiralty the "cruel custom," long practised by commanders of fishing ships, of leaving many men on the desert coast of Newfoundland, when the season was over,

\(^1\) A comparison of the figures just quoted, as to the British West Indies, with Sheffield's Table VII, indicates that the trade of the Continent with the foreign islands about equaled that with the British. The trade with the French West Indies, "open or clandestine, was considerable, and wholly in American vessels." — Macpherson, vol. iii. p. 584.

\(^2\) Sheffield, Commerce of the American States, p. 108.
whereby "these men were obliged to sell themselves to the colonists, or piratically run off with vessels, which they carry to the continent of America. By these practices the Newfoundland fishery, supposed to be one of the most valuable nurseries for seamen,\(^1\) has long been an annual drain."\(^2\) In the two years, 1764-65, he estimates that 2,500 seamen thus went to the colonies; in the next two years, 400. The difference was probably due to the former period being immediately after a war, the effects of which it reflected.

The general conditions of 1731 remained thirty years later, simply having become magnified as the colonies grew in wealth and population. In 1770 twenty-two thousand tons of shipping were annually built by the continental colonists. They even built ships for Great Britain; and this indulgence, for so it was considered, was viewed jealously by a class of well-informed men, intelligent, but fully imbued with the ideas of the Navigation Act, convinced that the carrying trade was the corner-stone of the British Navy, and realizing that where ships were cheaply built they could be cheaply sailed, even if they paid higher wages. It is true, and should be sedulously remembered, especially now in the United States, that the strength of a merchant shipping lies in its men even more than in its ships; and therefore that the policy of a country which wishes a merchant marine should be to allow its ships to be purchased where they most cheaply can, in order that the owner may be able to spend more on his crew, and the nation consequently to keep more seamen under its flag. But in 1770 the relative conditions placed Great Britain under serious disadvantages towards America in the matter of ship-building; for the heavy drafts upon her native oak had caused the price to rise materially, and even the forests of continental Eu-

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\(^1\) That is, for the navy.
rope felt the strain, while the colonies had scarcely begun to touch their resources. In 1775, more than one-third of the foreign trade of Great Britain was carried in American-built ships; the respective tonnage being, British-built, 605,545; American, 373,618.1

British merchants and ship-owners knew also that the colonial carriers were not ardent adherents of the Navigation Act, but conducted their operations in conformity with it only when compelled.2 They traded with the foreigner as readily as with the British subject; and, what was quite unpardonable in the ideas of that time, after selling a cargo in a West Indian port, instead of reloading there, they would take the hard cash of the island to a French neighbor, buying of him molasses to be made into rum at home. In this commercial shrewdness the danger was not so much in the local loss, or in the single transaction, for in the commercial supremacy of England the money was pretty sure to find its way back to the old country. The sting was that the sharp commercial instinct, roving from port to port, with a keen scent for freight and for bargains, maintained a close rivalry for the carrying trade, which was doubly severe from the natural advantages of the shipping and the natural aptitudes of the ship-owners. Already the economical attention of the New Englanders to the details of their shipping business had been noted, and had earned for them the name of the Dutchmen of

1 Macpherson, vol. iv, p. 11. The great West India cargo of 1772, an especial preserve of the Navigation Act, was carried to England in 679 ships, of which one-third were built in America.

2 "The contraband trade carried on by plantation ships in defiance of the Act of Navigation was a subject of repeated complaint." "The laws of Navigation were nowhere disobeyed and contemned so openly as in New England. The people of Massachusetts Bay were from the first disposed to act as if independent of the mother country." —Reeves, pp. 54, 58. The particular quotations apply to the early days of the measure, 1662-3; but the complaint continued to the end. In 1764-5, "one of the great grievances in the American trade was, that great quantities of foreign molasses and syrups were clandestinely run on shore in the British Colonies." —p. 79.
North America; an epithet than which there was then none more ominous to British ears, and especially where with the carrying trade was associated the twin idea of a nursery of seamen for the British Navy.

A fair appreciation of the facts and relations, summarized in the preceding pages from an infinitude of details, is necessary to a correct view of the origin and course of the misunderstandings and disagreements which finally led to the War of 1812. In 1783, the restoration of peace and the acknowledgment of the independence of the former colonies removed from commerce the restrictions incident to hostilities, and replaced in full action, essentially unchanged, the natural conditions which had guided the course of trade in colonial days. The old country, retaining all the prepossessions associated with the now venerable and venerated Navigation Act, saw herself confronted with the revival of a commercial system, a commercial independence, of which she had before been jealous, and which could no longer be controlled by political dependence. It was to be feared that supplying the British West Indies would increase American shipping, and that British seamen would more and more escape into it, with consequent loss to British navigation, both in tonnage and men, and discouragement to British maritime industries. Hence, by the ideas of the time, was to be apprehended weakness for war, unless some effective check could be devised.

What would have been the issue of these anxieties, and of the measures to which they gave rise, had not the French Revolution intervened to aggravate the distresses of Great Britain, and to constrain her to violent methods, is bootless to discuss. It remains true that, both before and during the conflict with the French Republic and Empire, the general character of her actions, to which the United States took exception, was determined by the conditions and ideas that have been stated, and can be understood
only through reference to them. No sooner had peace been
signed, in 1788, than disagreements sprang up again from
the old roots of colonial systems and ideals. To these
essentially was due the detailed sequence of events which,
influenced by such traditions of opinion and policy as have
been indicated, brought on the War of 1812, which has
not inaptly been styled the second War of Independence.
Madison, who was contemporary with the entire contro-
versy, and officially connected with it from 1801 to the
end of the war, first as Secretary of State, and later as
President, justly summed up his experience of the whole
in these words: “To have shrunk from resistance, under
such circumstances, would have acknowledged that, on the
element which forms three-fourths of the globe which we
inhabit, and where all independent nations have equal and
common rights, the American People were not an inde-
pendent people, but colonists and vassals. With such an
alternative war was chosen.” ¹ The second war was closely
related to the first in fact, though separated by a generation
in time.

¹ American State Papers, Foreign Relations, vol. i. p. 82.
CHAPTER II

FROM INDEPENDENCE TO JAY'S TREATY, 1794

The colonial connection between Great Britain and the thirteen communities which became the original States of the American Union was brought to a formal conclusion in 1776, by their Declaration of Independence. Substantially, however, it had already terminated in 1774. This year was marked by the passage of the Boston Port Bill, with its accessory measures, by the British Parliament, and likewise by the renewal, in the several colonies, of the retaliatory non-importation agreements of 1765. The fundamental theory of the eighteenth century concerning the relations between a mother country and her colonies, that of reciprocal exclusive benefit, had thus in practice yielded to one of mutual injury; to coercion and deprivation on the one side, and to passive resistance on the other. On September 6 the representatives of twelve colonies assembled in Philadelphia; Georgia alone sending no delegates, but pledging herself in anticipation to accept the decisions taken by the others. One of the first acts of this Congress of the Continental Colonies was to indorse the resolutions by which Massachusetts had placed herself in an attitude of contingent rebellion against the Crown, and to pledge their support to her in case of a resort to arms. These several steps were decisive and irrevocable, except by an unqualified abandonment, by one party or the other, of the principles which underlay and dictated them. The die was cast. To use words attributed to George the Third, “the colonies must now either submit or triumph.”

The period which here began, viewed in the aggre-
gate of the national life of the United States, was one of wavering transition and uncertain issue in matters political and commercial. Its ending, in these two particulars, is marked by two conspicuous events: the adoption of the Constitution and the Commercial Treaty with Great Britain. The formation of the Federal Government, 1788–90, gave to the Union a political stability it had hitherto lacked, removing elements of weakness and dissensions, and of consequent impotence in foreign relations; the manifestation of which since the acknowledgment of independence had justified alike the hopes of enemies and the forebodings of friends. Settled conditions being thus established at home, with institutions competent to regulate a national commerce, internal and external, as well as to bring the people as a whole into fixed relations with foreign communities, there was laid the foundations of a swelling prosperity to which the several parts of the country jointly contributed. The effects of these changes were soon shown in a growing readiness on the part of other nations to enter into formal compacts with us. Of this, the treaty negotiated by John Jay with Great Britain, in 1794, is the most noteworthy instance; partly because it terminated one long series of bickerings with our most dangerous neighbor, chiefly because the commercial power of the state with which it was contracted had reached a greater eminence, and exercised wider international effect, than any the modern world had then seen.

Whatever the merits of the treaty otherwise, therefore, the willingness of Great Britain to enter into it at all gave it an epochal significance. Since independence, commercial intercourse between the two peoples had rested on the strong compelling force of natural conditions and reciprocal convenience, the true foundation, doubtless, of all useful relations; but its regulation had been by municipal ordinance of either state, changeable at will, not by mutual
agreement binding on both for a prescribed period. Since the separation, this condition had seemed preferable to Great Britain, which, as late as 1790, had evaded overtures towards a commercial arrangement. Her consenting now to modify her position was an implicit admission that in trade, as in political existence, the former mother country recognized at last the independence of her offspring. The latter, however, was again to learn that independence, to be actual, must rest on something stronger than words, and surer than the acquiescence of others. This was to be the lesson of the years between 1794 and 1815, administered to us not only by the preponderant navy of Great Britain, but by the petty piratical fleets of the Barbary powers.

From the Boston Port Bill to Jay’s Treaty was therefore a period of transition from entire colonial dependence, under complete regulation of all commercial intercourse by the mother country, to that of national commercial power, self-regulative and efficient, through the adoption of the Constitution. Upon this followed international influence, the growing importance of which Great Britain finally recognized by formal concessions, hitherto refused or evaded. During these years the policy of her government was undergoing a process of adjustment, conditioned on the one hand by the still vigorous traditional prejudices associated with the administration of dependencies, and on the other by the radical change in political relations between her remaining colonies in America and the new states which had broken from the colonial bond. This change was the more embarrassing, because the natural connection of specific mutual usefulness remained, although the tie of a common allegiance had been loosed. The old order was yielding to the new, but the process was signalized by the usual slowness of men to accept events in their full

1 American State Papers, Foreign Relations, vol. i, p. 121.
significance. Hitherto, all the western hemisphere had been under a colonial system of complete monopoly by mother countries, and had been generally excluded from direct communication with Europe, except the respective parent states. In the comprehensive provisions of the British Navigation Act, America was associated with Asia and Africa. Now had arisen there an independent state, in political standing identical with those of Europe, yet having towards colonial America geographical and commercial relations very different from theirs. Consequently there was novelty and difficulty in the question. What intercourse with the remaining British dominions, and especially with the American colonies, should be permitted to the new nation? Notwithstanding the breach lately made, it continued a controlling aim with the British people, and of the government as determined by popular pressure, to restore the supremacy of British trade, by the subjection of America, independent as well as colonial, to the welfare of British commerce. Notably this was to be so as regards the one dominant interest called Navigation, under which term was comprised everything relating to shipping—shipbuilding, seafaring men, and the carrying trade. Independence had deprived Great Britain of the right she formerly had to manipulate the course of the export and import trade of the now United States. It remained to try whether there did not exist, nevertheless, the ability effectually to control it to the advantage of British navigation, as above defined. "Our remaining colonies on the Continent, and the West India Islands," it was argued, "with the favorable state of English manufactures, may still give us almost exclusively the trade of America;" provided these circumstances were suitably utilized, and their advantages rigorously enforced, where power to do so still remained, as it did in the West Indies.

Although by far the stronger and more flourishing part
of her colonial dominions had been wrested from Great Britain, there yet remained to her upon the continent, in Canada and the adjacent provinces, a domain great in area, and in the West India Islands another of great productivity. Whatever wisdom had been learned as regards the political treatment of colonies, the views as to the nature of their economical utility to the mother country, and their consequent commercial regulation, had undergone no enlargement, but rather had been intensified in narrowness and rigor by the loss of so valuable a part of the whole. No counteractive effect to this prepossession was to be found in contemporary opinion in Europe. The French Revolution itself, subversive as it was of received views in many respects, was at the first characterized rather by an exaggeration of the traditional exclusive policy of the eighteenth century relating to colonies, shipping, and commerce. In America, the unsettled commercial and financial conditions which succeeded the peace, the divergence of interests between the several new states, the feebleness of the confederate government, its incompetency to deal assuredly with external questions, and lack of all power to regulate commerce, inspired a conviction in Great Britain that the continent could not offer strong, continued resistance to commercial aggression, carried on under the peaceful form of municipal regulation. It was generally thought that the new states could never unite, but instead would drift farther apart.

The belief was perfectly reasonable; a gift of prophecy only could have foretold the happy result, of which many of the most prominent Americans for some time despaired. "It will not be an easy matter," wrote Lord Sheffield, 1 "to bring the American States to act as a nation; they are not to be feared as such by us. It must be a long time before they can engage, or will concur, in any material expense."

1 Commerce of the American States (Edition February, 1784), pp. 198–199.
We might as reasonably dread the effects of combinations among the German as among the American states, and deprecate the resolves of the Diet, as those of Congress.” “No treaty can be made that will be binding on the whole of them.” “A decided cast has been given to public opinion here,” wrote John Adams from London, in November, 1785, “by two presumptions. One is, that the American states are not, and cannot, be united.”

Two years later Washington wrote: “The situation of the General Government, if it can be called a government, is shaken to its foundation, and liable to be overthrown at every blast. In a word, it is at an end. . . . The primary cause of all our disorders lies in the different state governments, and in the tenacity of that power which underlies the whole of their systems. Independent sovereignty is so ardently contended for.” “At present, under our existing form of confederation, it would be idle to think of making commercial regulations on our part. One state passes a prohibitory law respecting one article; another state opens wide the avenue for its admission. One assembly makes a system, another assembly unmakes it.”

Under such conditions it was natural that a majority of Englishmen should see power and profit for Great Britain in availing herself of the weakness of her late colonists, to enforce upon them a commercial dependence as useful as the political dependence which had passed away. Were this realized, she would enjoy the emoluments of the land without the expense of its protection. This gospel was preached at once to willing ears, and found acceptance; not by the strength of its arguments, for these, though plausible, were clearly inferior in weight to the facts copiously adduced by those familiar with conditions, but through the

prejudices which the then generation had received from the three or four preceding it. The policy being adopted, the instrument at hand for enforcing it was the relation of colonies to mother countries, as then universally maintained by the governments of the day. The United States, like other independent nations, was to be excluded wholly from carrying trade with the British colonies, and as far as possible from sending them supplies. It was urged that Canada, and the adjacent British dominions, encouraged by this reservation of the West India market for their produce, would prove adequate to furnishing the provisions and lumber previously derived from the old continental colonies. The prosperity once enjoyed by the latter would be transferred, and there would be reconstituted the system of commercial intercourse, interior to the empire, which previously had commanded general admiration. The new states, acting commercially as separated communities, could oppose no successful rivalry to this combination, and would revert to isolated commercial dependence; tributary to the financial supremacy of Great Britain, as they recently had been to her political power. In debt to her for money, and drawing from her manufactures, returns for both would compel their exports to her ports chiefly, whence distribution would be, as of old, in the hands of British middlemen and navigators. Just escaped from the fetters of the carrying trade and entrepôt regulations, the twin monopolies in which consisted the value of a colonial empire, it was proposed to reduce them again under bondage by means for which the West India Islands furnished the leverage; for "the trade carried on by Great Britain with the countries now become the United States was, and still is, so connected with the trade carried on to the remaining British colonies in America, and the British islands in the West Indies, that it is impossible to form a true judgment of the past and present of the first, without taking a com-
prehensive view of all, as they are connected with, and
influence, each other.”¹

Before the peace of 1783, the writings of Adam Smith
had gravely shaken belief in the mercantile system of ex-
traordinary trade regulation and protection as conducive
to national prosperity. Though undermined, however, it
had not been overthrown; and even to doubters there re-
mained the exception, which Smith himself admitted, of
the necessity to protect navigation as a nursery for the
navy, and consequently as a fundamental means of na-
tional defence. Existence takes precedence of prosperity;
the life is more than the meat. Commercial regulation,
though unfitted to increase wealth, could be justified as a
means to promote ship-building; to retain ship-builders in
the country; to husband the raw materials of their work;
to force the transport of merchandise in British-built ships
and by British seamen; and thus to induce capital to in-
vest, and men to embark their lives, in maritime trade, to
the multiplication of ships and seamen, the chief depend-
dence of the nation in war. “Keeping ships for freight,”
said Sheffield, “is not the most profitable branch of trade.
It is necessary, for the sake of our marine, to force or en-
courage it by exclusive advantages.” “Comparatively
with the number of our people and the extent of our
country, we are doomed almost always to wage unequal
war; and as a means of raising seamen it cannot be too
often repeated that it is not possible to be too jealous on
the head of navigation.” He proceeds then at once to
draw the distinction between the protection of navigation
and that of commerce generally. “This jealousy should
not be confounded with that towards neighboring countries
as to trade and manufactures; nor is the latter jealousy in
many instances reasonable or well founded. Competition
is useful, forcing our manufacturers to act fairly, and to


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work reasonably." Sheffield was the most conspicuous, and probably the most influential, of the controversialists on this side of the question at this period; the interest of the public is shown by his pamphlet passing through six editions in a twelvemonth. He was, however, far from singular in this view. Chalmers, a writer of much research, said likewise: "In these considerations of nautical force and public safety we discover the fundamental principle of Acts of Navigation, which, though established in opposition to domestic and foreign clamors, have produced so great an augmentation of our native shipping and sailors, and which therefore should not be sacrificed to any projects of private gain,"—that is, of commercial advantage. "There are intelligent persons who suggest that the imposing of alien duties on alien ships, rather than on alien merchandise, would augment our naval strength." 1

Colonies therefore were esteemed desirable to this end chiefly. To use the expression of a French officer, 2 they were the fruitful nursery of seamen. French writers of that day considered their West India islands the chief nautical support of the state. But in order to secure this, it was necessary to exercise complete control of their trade inward and outward; of the supplies they needed as well as of the products they raised, and especially to confine the carriage of both to national shipping. "The only use and advantage of the (remaining) American colonies 3 or West India islands to Great Britain," says Sheffield, "are the monopoly of their consumption and the carriage of their produce. It is the advantage to our navigation which in any degree counteracts the enormous expense of protecting our islands. Rather than give up their carrying trade it would be better to give up them-

1 Chalmers, Opinions, p. 32.
3 Canada, Newfoundland, Bermuda, etc.
selves." The entrepôt system herein found additional justification, for not only did it foster navigation by the homeward voyage, confined to British ships, and extort toll in transit, but the re-exportation made a double voyage which was more than doubly fruitful in seamen; for from the nearness of the British Islands to the European continent, which held the great body of consumers, this second carriage could be done, and actually was done, by numerous small vessels, able to bear a short voyage but not to brave an Atlantic passage. Economically, trade by many small vessels is more expensive than by a few large, because for a given aggregate tonnage it requires many more men; but this economical loss was thought to be more than compensated by the political gain in multiplying seamen. It was estimated in 1795 that there was a difference of from thirty-five to forty men in carrying the same quantity of goods in one large or ten small vessels. This illustrates aptly the theory of the Navigation Act, which sought wealth indeed, but, as then understood, subordinated that consideration distinctly to the superior need of increasing the resources of the country in ships and seamen. Moreover, the men engaged in these short voyages were more immediately at hand for impressment in war, owing to the narrow range of their expeditions and their frequent returns to home ports.

In 1783, therefore, the Navigation Act had become in general acceptance a measure not merely commercial, but military. It was defended chiefly as essential to the naval power of Great Britain, which rested upon the sure foundation of maritime resources thus laid. Nor need this view excite derision to-day, for it compelled then the adhesion of an American who of all in his time was most adverse to the general commercial policy of Great Britain. In a report on the subject made to Congress in 1793, by
Jefferson, as Secretary of State, he said: “Our navigation involves still higher considerations than our commerce. As a branch of industry it is valuable, but as a resource of defence essential. It will admit neither neglect nor forbearance. The position and circumstances of the United States leave them nothing to fear on their land-board; . . . but on their seaboard they are open to injury, and they have there too a commerce (coasting) which must be protected. This can only be done by possessing a respectable body of citizen-seamen, and of artists and establishments in readiness for ship-building.” ¹ The limitations of Jefferson’s views appear here clearly, in the implicit relegation of defence, not to a regular and trained navy, but to the occasional unskilled efforts of a distinctly civil force; but no stronger recognition of the necessities of Great Britain could be desired, for her nearness to the great military states of the world deprived her land-board of the security which the remoteness of the United States assured. With such stress laid upon the vital importance of merchant seamen to national safety, it is but a step in thought to perceive how inevitable was the jealousy and indignation felt in Great Britain, when she found her fleets, both commercial and naval, starving for want of seamen, who had sought refuge from war in the American merchant service, and over whom the American Government, actually weak and but yesterday vassal, sought to extend its protection from impressment.

Up to the War of American Independence, the singular geographical situation of Great Britain, inducing her to maritime enterprise and exempting her from territorial warfare, with the financial and commercial pre-eminence she had then maintained for three-fourths of a century, gave her peculiar advantages for enforcing a policy which until that time had thriven conspicuously, if somewhat illusively,

in its commercial results, and had substantially attained its especial object of maritime preponderance. Other peoples had to submit to the compulsion exerted by her overwhelming superiority. The obligation upon foreign shipping to be three-fourths manned by their own citizens, for instance, rested only upon a British law, and applied only in a British port; but the accumulations of British capital, with the consequent facility for mercantile operations and ability to extend credits, the development of British manufactures, the extent of the British carrying trade, the enforced storage of colonial products in British territory, with the correlative obligation that foreign goods for her numerous and increasing colonists must first be brought to her shores and thence transshipped,—all these circumstances made the British islands a centre for export and import, towards which foreign shipping was unavoidably drawn and so brought under the operation of the law. The nation had so far out-distanced competition that her supremacy was unassailable, and remained unimpaired for a century longer. To it had contributed powerfully the economical distribution of her empire, greatly diversified in particulars, yet symmetrical in the capacity of one part to supply what the other lacked. There was in the whole a certain self-sufficingness, resembling that claimed in this age for the United States, with its compact territory but wide extremes of boundary, climates, and activities.

This condition, while it lasted, in large degree justified the Navigation Act, which may be summarily characterized as a great protective measure, applied to the peculiar conditions of a particular maritime empire, insuring reciprocal and exclusive benefit to the several parts. It was uncompromisingly logical in its action, not hesitating at rigid prohibition of outside competition. Protection, in its best moral sense, may be defined as the regulation of
all the business of the nation, considered as an interrelated whole, by the Government, for the best interests of the entire community, likewise regarded as a whole. This the Navigation Act did for over a century after its enactment; and it may be plausibly argued that, as a war resort at least, it afterwards measurably strengthened the hands of Great Britain during the wars of the French Revolution. No men suffered more than did the West India planters from its unrelieved enforcement after 1783; yet in their vehement remonstrance they said: “The policy of the Act is justly popular. Its regulations, until the loss of America, under the various relaxations which Parliament has applied to particular events and exigencies as they arose, have guided the course of trade without oppressing it; for the markets which those regulations left open to the consumption of the produce of the colonies were sufficient to take off the whole, and no foreign country could have supplied the essential part of their wants materially cheaper than the colonies of the mother country could supply one another.”

Thus things were, or were thought to be, up to the time when the revolt of the continental colonies made a breach in the wall of reciprocal benefit by which the whole had been believed to be enclosed. The products of the colonies sustained the commercial prosperity of the mother country, ministering to her export trade, and supplying a reserve of consumers for her monopoly of manufactures, which they were forbidden to establish for themselves, or to receive from foreigners. She on her part excluded from the markets of the empire foreign articles which her colonies produced, constituting for them a monopoly of the imperial home market, as well in Great Britain as in the sister colonies. The carriage of the whole was confined to British navigation, the maintenance of which by this means raised the British Navy to the mastery of the seas,
enabling it to afford to the entire system a protection, of which convincing and brilliant evidence had been afforded during the then recent Seven Years’ War. As a matter of political combination and adjustment, for peace or for war, the general result appeared to most men of that day to be consummate in conception and in development, and therefore by all means to be perpetuated. In that light men of to-day must realize it, if they would adequately understand the influence exercised by this prepossession upon the course of events which for the United States issued in the War of 1812.

In this picture, so satisfactory as a whole, there had been certain shadows menacing to the future. Already, in the colonial period, these had been recognized by some in Great Britain as predictive of increasing practical independence on the part of the continental colonies, with results injurious to the empire at large, and to the particular welfare of the mother kingdom. In the last analysis, this danger arose from the fact that, unlike the tropical West Indies, these children were for the most part too like their parent in political and economical character, and in permanent natural surroundings. There was, indeed, a temporary variation of activities between the new communities, where the superabundance of soil kept handicrafts in abeyance, and the old country, where agriculture was already failing to produce food sufficient for the population, and men were being forced into manufactures and their export as a means of livelihood. There was also a difference in their respective products which ministered to beneficial exchange. Nevertheless, in their tendencies and in their disposition, Great Britain and the United States at bottom were then not complementary, but rivals. The true complement of both was the West Indies; and for these the advantage of proximity, always great, and especially so with regard to the special exigencies of the islands, lay with the
United States. Hence it came to pass that the trade with the West Indies, which then had almost a monopoly of sugar and coffee production for the world, became the most prominent single factor in the commercial contentions between the two countries, and in the arbitrary commercial ordinances of Great Britain, which step by step led the two nations into war. The precedent struggle was over a market; artificial regulation and superior naval power seeking to withstand the natural course of things, and long successfully retarding it.

The suspension of intercourse during the War of Independence had brought the economical relations into stronger relief, and accomplished independence threatened the speedy realization of their tendencies. There were two principal dangers dreaded by Great Britain. The West India plantation industry had depended upon the continental colonies for food supplies, and to a considerable extent also financially; because these alone were the consumers of one important product—rum. Again, ship-building and the carrying trade of the empire had passed largely into the hands of the continental colonists, keeping on that side of the Atlantic, it was asserted, a great number of British-born seamen. While vessels from America visited many parts of the world, the custom-house returns showed that of the total inward and outward tonnage of the thirteen colonies, over sixty per cent had been either coastwise or with the West Indies; and this left out of account the considerable number engaged in smuggling. Of the remainder, barely twenty-five per cent went to Great Britain or Ireland. In short, there had been building upon the western side of the ocean, under the colonial connection, a rival maritime system, having its own products, its own special markets, and its own carrying trade. The latter also, being done by very small vessels, adapted to the short transit, had created for itself, or absorbed from elsewhere,
a separate and proportionately large maritime population, rivalling that of the home country, while yet remaining out of easy reach of impressment and remote from immediate interest in European wars. One chief object of the Navigation Act was thus thwarted; and indeed, as might be anticipated from quotations already made, it was upon this that British watchfulness more particularly centred. As far as possible all interchange was to be internal to the empire, a kind of coasting trade, which would naturally, as well as by statute, fall to British shipping. Protective regulation therefore should develop in the several parts those productions which other parts needed,—the material of commerce; but where this could not be done, and supplies must be sought outside, they should go and come in British vessels, navigated according to the Act. "Our country," wrote Sheffield, in concluding his work, "does not entirely depend upon the monopoly of the commerce of the thirteen American states, and it is by no means necessary to sacrifice any part of our carrying trade for imaginary advantages never to be attained."¹

A further injury was done by the cheapness with which the Americans built and sold ships, owing to their abundance of timber. They built them not only to order, but as it were for a market. Although acceptable to the mercantile interest, and even indirectly beneficial by sparing the resources for building ships of war, this was an invasion of the manufacturing industry of the kingdom, in a particular peculiarly conducive to naval power. The returns of the British underwriters for twenty-seven shipping ports of Great Britain and Ireland, during a series of years immediately preceding the American revolt, no ship being counted twice, showed the British-built vessels entered to be 3,908, and the American 2,311.² The tonnage of the latter was more than one-third of the total

¹ p. 288. ² Coxe, View of the United States, p. 346.
The intercourse between the American continent and the West Indies, not included in this reckoning, was almost wholly in American bottoms. The proportion of American-built shipping in the total of the empire is hence apparent, as well as the growth of the ship-building industry. This of course was accompanied by a tendency of mechanics, as well as seamen, to remove to a situation so favorable for employment. But the maintenance of home facilities for building ships was as essential to the development of naval power as was the fostering of a class of seamen. In this respect, therefore, the ship-building of America was detrimental to the objects of the Navigation Act; and the evil threatened to increase, because of a discernible approaching shortness of suitable timber in the overtaxed forests of Europe.

Such being the apparent tendency of things, owing to circumstances relatively permanent in character, the habit of mind traditional with British merchants and statesmen, formed by the accepted colonial and mercantile systems, impelled them at once to prohibitory measures of counter-action, as soon as the colonies, naturally rival, had become by independence a foreign nation. For a moment, indeed, it appeared that broader views might prevail, based upon a sounder understanding of actual conditions and of the principles of international commerce. The second William Pitt was Chancellor of the Exchequer at the time the provisional articles of peace with the United States were signed, in November, 1782; and in March, 1783, he introduced into the House of Commons a bill for regulating temporarily the intercourse between the two nations, so far as dependent upon the action of Great Britain, until it should be possible to establish a mutual arrangement by treaty. This measure reflected not only a general attitude of good will towards America, characteristic of both father and son, but also the impression which had been made upon
the younger man by the writings of Adam Smith. Professing as its objects "to establish intercourse on the most enlarged principles of reciprocal benefit," and "to evince the disposition of Great Britain to be on terms of most perfect amity with the United States of America," the bill admitted the ships and vessels of the United States, with the merchandise on board, into all the ports of Great Britain in the same manner as the vessels of other independent states; that is, manned three-fourths by American seamen. This preserved the main restrictions of the Navigation Act, protective of British navigation; but the merchandise, even if brought in American ships, was relieved of all alien duties. These, however, wherever still existing for other nations, were light, and this remission slight; 1 a more substantial concession was a rebate upon all exports from Great Britain to the United States, equal to that allowed upon goods exported to the colonies. As regarded intercourse with the West Indies, there was to be made in favor of the thirteen states a special and large remission in the rigor of the Act; one affecting both commerce and navigation. To British colonies, by long-standing proscription, no ships except British had been admitted to export or import. By the proposed measure, the United States, alone among the nations of the world, were to be allowed to import freely any goods whatsoever, of their own growth, produce, or manufacture, in their own ships; on the same terms exactly as British vessels, if these should engage in the traffic between the American continent and the islands. Similarly, freedom to export colonial produce was granted to American bottoms from the West Indies to the United States. Both exports and imports, thus to be authorized, were to be "liable to the same duties and charges only as

1 Reeves, p. 381. Nevertheless, foreign nations frequently complained of this as a distinction against them (Report of the Committee of the Privy Council, Jan. 28, 1791, p. 10).
the same merchandise would be subject to, if it were the property of British native-born subjects, and imported in British ships, navigated by British seamen." 1 In short, while the primary purpose doubtless was the benefit of the islands, the effect of the measure, as regarded the West India trade, was to restore the citizens of the now independent states to the privileges they had enjoyed as colonists. The carrying trade between the islands and the continent was conceded to them, and past experience gave ground to believe it would be by them absorbed.

It was over this concession that the storm of controversy arose and raged, until the outbreak of the French Revolution, by the conservative reaction it provoked in other governments, arrested for the time any change of principle in regard to colonial administration, whatever modifications might from time to time be induced by momentary exigencies of policy. The question immediately argued was probably on all hands less one of principle than of expediency. Superior as commercial prosperity and the preservation of peace were to most other motives in the interest of Pitt's mind, he doubtless would have admitted, along with his most earnest opponents, that the fostering of the national carrying trade, as a nursery to the navy and so contributory to national defence, took precedence of purely commercial legislation. With all good-will to America, his prime object necessarily was the welfare of Great Britain; but this he, contrary to the mass of public opinion, conceived to lie in the restoration of the old intercourse between the two peoples, modified as little as possible by the new condition of independence. He trusted that the habit of receiving everything from England, the superiority of British manufactures, a common tongue, and commercial correspondences only temporarily interrupted by the war, would tend to keep the new states customers

of Great Britain chiefly, as they had been before; and what they bought they must pay for by sending their own products in return. This constraint of routine and convenience received additional force from the scarcity of capital in America, and its abundance in Great Britain, relatively to the rest of Europe. The wealthiest nation could hold the Americans by their need of accommodations which others could not extend.

In so far there probably was a general substantial agreement in Great Britain. The Americans had been consumers to over double the amount of the West Indies before the war, and it was desirable to retain their custom. Nor was the anticipation of success deceived. Nine years later, despite the rejection of Pitt's measure, an experienced American complained "that we draw so large a proportion of our manufactures from one nation. The other European nations have had the eight years of the war (of Independence) exclusively, and the nine years of peace in fair competition, and do not yet supply us with manufactures equivalent to half of the stated value of the shoes made by ourselves."¹ In the first year of the government under the Constitution, from August, 1789, to September 30, 1790, after seven years of independence, out of a total of not quite $20,000,000 imports to the United States, over $15,000,000 were from the dominions of Great Britain;² and nearly half the exports went to the same destination, either as raw material for manufactures, or as to the distributing centre for Europe. The commercial dependence is evident; it had rather increased than diminished since the Peace. As regards American navigation, the showing

¹ Coxe's View, p. 318.
² American State Papers, Foreign Affairs, vol. i. p. 301. Jefferson added, "These imports consist mostly of articles on which industry has been exhausted,"—i.e., completed manufactures. The State Papers, Commerce and Navigation, give the tabulated imports and exports for many succeeding years.
was somewhat better: but even here 217,000 tons British had entered United States ports, against a total of only 355,000 American. As of the latter only 50,000 had sailed from Great Britain, it is clear that the empire had retained its hold upon its carrying trade, throughout the years intervening between the Peace and the adoption of the Constitution.

As regards the commercial relations between the two nations, these results corresponded in the main with the expectations of those who frustrated Pitt’s measure. He had conceived, however, that it was wise for Great Britain not only to preserve a connection so profitable, but also to develop it; to multiply the advantage by steps which would promote the prosperity and consequent purchasing power of the communities involved. This was the object of his proposed concession. During the then recent war, no part of the British dominions—save besieged Gibraltar—had suffered so severely as the West Indies. Though other causes concurred, this was due chiefly to the cessation of communications with the revolted colonies, entailing failure of supplies indispensable to their industries. Despite certain alleviations incidental to the war, such as the capture of American vessels bound to foreign islands, and the demand for tropical products by the British armies and fleets, there had been great misery among the population, as well as financial loss. The resumption of commercial intercourse would benefit the continent as well as the islands; but the latter more. The prosperity of both would redound to the welfare of Great Britain; for the one, though now politically independent, was chained to her commercial system by imperative circumstances, while of the trade of the other she would have complete monopoly, except for this tolerance of a strictly local traffic with the adjoining continent. As for British navigation, the supreme interest, Pitt believed that it
would receive more enlargement from the increase of productiveness in the islands, and of consequent demand for British manufactures, than it would suffer loss by American navigation. More commerce, more ships. Then, as at the present day, the interests of Great Britain and of the United States, in their relations to a matter of common external concern, were not opposed, but complementary; for the prosperity of the islands through America would make for the prosperity of Great Britain through the islands.

This, however, was just the point disputed; and, in default of the experience which the coming years were to furnish, fears not wholly unreasonable, from the particular point of view of sea power, as then understood, were aroused by the known facts of American shipping enterprise, both as ship-builders and carriers, even under colonial trammels. John Adams, who was minister to Great Britain from 1785 to 1788, had frequent cause to note the deep and general apprehension there entertained of the United States as a rival maritime state. The question of admission to the colonial trade, as it presented itself to most men of the day, was one of defence and of offence, and was complicated by several considerations. As a matter of fact, there was no denying the existence of that transatlantic commercial system, in which the former colonies had been so conspicuous a factor, the sole source of certain supplies to an important market, reflecting therein exactly Great Britain's own position relatively to the consumers of the European continent. The prospect of reviving what had always been an imperium in imperio, but now uncontrolled by the previous conditions of political subjection, seemed ominous; and besides, there was cherished the hope, ill-founded and delusive though it was, that the integrity of the empire as a self-sufficing whole, broken by recent revolt, might be restored by strong measures, coercive towards the com-
merce of the United States, and protective towards Canada and the other remaining continental colonies. It was believed by some that the agriculture, shipping, and fisheries of Canada, Nova Scotia, and Newfoundland, despite the obstacles placed by nature, could be so fostered as to supply the needs of the West Indies, and to develop also a population of consumers bound to take off British manufactures, as the lost colonists used to do. This may be styled the constructive idea, in Sheffield’s series of propositions, looking to the maintenance of the British carrying trade at the expense of that of the United States. This expectation proved erroneous. Up to and through the War of 1812, the British provinces, so far from having a surplus for export, had often to depend upon the United States for much of the supplies which Sheffield expected them to send to the West Indies.

The proposition was strongly supported also by a wish to aid the American loyalists, who, to the number of many thousands, had fled from the old colonies to take refuge in the less hospitable North. These men, deprived of their former resources, and having a new start in life to make, desired that the West India market should be reserved for them, to build up their local industries. Their influence was exerted in opposition to the planters, and the mother country justly felt itself bound to their relief by strong obligation. Conjoined to this was doubtless the less worthy desire to punish the successful rebellion, as well as to hinder the growth of a competitor. “If I had not been here and resided here some time,” wrote John Adams, in 1785, “I should not have believed, nor could have conceived, such an union of all Parliamentary factions against us, which is a demonstration of the unpopularity of our cause.” ¹

A jealousy of our naval power is the true motive, the real passion which actuates them. They consider the United States as their rival, and the most dangerous rival they have in the world. I can see clearly they are less afraid of the augmentation of French ships and sailors than American. They think they foresee that if the United States had the same fisheries, carrying trade, and same market for ready-built ships, they had ten years ago, they would be in so respectable a position, and in so happy circumstances, that British seamen, manufacturers, and merchants too, would hurry over to them.”

These statements, drawn from Adams’s association with many men, reflect so exactly the line of argument in the best known of the many controversial pamphlets published about that time,—Lord Sheffield’s “Observations on the Commerce of the American States,”—as to prove that it represented correctly a preponderant popular feeling, not only adverse to the restoration of the colonial privileges contemplated by Pitt, but distinctly imical to the new nation; a feeling born of past defeat and of present apprehension.

Inextricably associated with this feeling was the conviction that the navigation supported by the sugar islands, being a monopoly always under the control of the mother country, and ministering to the entrepôt on which so much other shipping depended, was the sure support of the general carrying trade of the nation. “Considering the bulk of West India commodities,” Sheffield had written, “and the universality and extent of the consumption of sugar, a consumption still in its infancy even in Europe, and still more in America, it is not improbable that in a few ages the nation which may be in possession of the most extensive and best cultivated sugar islands, subject to a proper policy, will take the lead at sea.” Men of all schools concurred in this general view, which is explanatory.

2 My italics.
of much of the course pursued by the British Government, alike in military enterprise, commercial regulation, and political belligerent measures, during the approaching twenty years of war with France. It underlay Pitt’s subsequent much derided, but far from unwise, care to get the whole West India region under British control, by conquering its sugar islands. It underlay also the other measures, either instituted or countenanced by him, or inherited from his general war policy, which led through ever increasing exasperation to the war with the United States. The question, however, remained, “What is the proper policy conducive to the end which all desire?” Those who thought with Pitt in 1783 urged that to increase the facilities of the islands, by abundant supplies from the nearest and best source, in America, would so multiply the material of commerce as most to promote the necessary navigation. The West India planters pressed this view with forcible logic. “Navigation and naval power are not the parents of commerce, but its happy fruits. If mutual wants did not furnish the subject of intercourse between distant countries, there would soon be an end of navigation. The carrying trade is of great importance, but it is of greater still to have trade to carry.” To this the reply substantially was that if the trade were thrown open to Americans, by allowing them to carry in their own vessels, the impetus so given to their navigation, with the cheapness of their ships, owing to the cheapness of materials, would make them carriers to the whole world, breaking up the monopoly of British merchants, and supplanting the employment of British ships.

A few statesmen, more far seeing and deeper reasoning,—notably Edmund Burke,—came to Pitt’s support, and the West India proprietors, largely resident in England, by their knowledge of details contributed much to elucidate the facts; but their efforts were unavailing. Their argu-
ment ran thus: "Only the American continent can furnish at reasonable rates the animals required for the agriculture of the islands, the food for the slaves, the lumber for buildings and for packing produce. Only the continent will take the rum which Europe refuses, and with which the planter pays his running expenses. Owing to irreversible currents of trade, neither British nor island shipping can carry this traffic at a profit to themselves, except by ruinously overcharging the planter. Americans only can do it. Concede the exchange by this means, and the development of sugar and coffee raising, owing to their bulk as freight, will enlarge British shipping to Europe by an amount much beyond that lost in the local transport. Of the European carriage you will retain a monopoly, as you will of the produce, which goes into your storehouses alone; whence you reap the advantage of brokerage and incidental handling, at the expense of the continental consumer, while your home navigation is enlarged by its export. Refuse this privilege, and your islands sink under French and Spanish competition. French Santo Domingo, especially, exceeds by far all your possessions, both in the extent of soil and quality of product." Very shortly they were able also to say that the French allowed ships to be bought from Americans; and, although in their treaty with the United States they had refused free intercourse to American vessels, a royal ordinance of 1784 permitted it to vessels of under sixty tons' burden.

Within a month of the introduction of Pitt's bill the ministry to which he then belonged fell. The one which followed refrained from dealing at all with the subject, except by recourse to an expedient not uncommon with party leaders, dealing with a new question of admitted intricacy. They passed a bill leaving the whole matter to the Crown for executive action. Accordingly, in July, 1788, a proclamation was issued permitting intercourse
between the islands and the American continent, in a long list of specified articles, but only by British ships, owned and navigated as required by the Navigation Act. American vessels were excluded by omission, and while most necessities for food, agriculture, and commerce were admitted, one staple article, salt fish, urgently requested by the planters, was forbidden. This was partly to encourage the Newfoundland fisheries and those of Great Britain, and partly to injure American. Both objects were in the line of the Navigation Act, to foster home navigation and impede that of foreigners; fisheries being considered a prime support of each. A generation before, the elder Pitt had inveighed against the Peace of Paris, in 1763, on account of the concession of the cod fisheries. "You leave to France," he said, "the opportunity of reviving her navy." Before the separation, the near and great market of the West India negro population had consumed one-third of the American catch of fish. So profitable a condition could no longer be continued. Salt provisions also, butter, and cheese, were not allowed, being reserved for Irish producers.¹

The next December the enabling bill was renewed and the proclamation re-issued. At this moment Pitt returned to office. A few months later, in the spring of 1784, Parliament was dissolved, and the ensuing elections carried him into power at the head of a great majority. He made no immediate attempt to resume legislation favoring the American trade with the West Indies. The disposition of the majority of Englishmen in the matter had been plainly shown, and other more urgent commercial reforms engaged his attention. Soon after the receipt of the news in America, some of the states passed retaliatory measures, on their own account, or authorized the Continental Congress so to act for them. The bad feeling already caused

¹ Chalmers, Opinions, p. 65.
by the non-fulfilment, on both sides, of certain stipulations
of the treaty of peace was particularly exasperated by this
proclamation; for anticipation, aroused by Pitt's proposed
measure, had been nursed into confident expectation during
the four months' interval, in which intercourse had been
openly or tacitly allowed. It was at this period that Nelson
first came conspicuously into public notice, by checking
the connivance of the West Indian governors in the infrac-
tions of the Navigation Laws; the Act authorizing com-
manders of Kings' ships to seize offending vessels, and
bring them before the Court of Admiralty. It is said
also that his experience had much to do with shaping sub-
sequent legislation upon the same prohibitory lines. In
America disappointment was bitter. Little concern was
felt in England. Concerted action by several states was
thought most unlikely, and a more perfect union impossible.
While Massachusetts, for example, in 1785 forbade import
or export in any vessel belonging in whole or in part to
British subjects, the state then next to her in maritime
importance, Pennsylvania, in 1786 repealed laws imposing
extra charges on British ships, and admitted all nations on
equal terms with her sister states. "The ministry in
England," wrote Adams, "build all their hopes and schemes
upon the supposition of such divisions in America as will
forever prevent a combination of the States, either in prohi-
bition or in retaliatory duties." 2

Effective retaliation consequently was not feared, and
as for results otherwise, it was doubtless thought best to
await the test of experience. Proclamation, annually au-
thorized and re-issued, remained therefore the mode of
regulating commerce between the British dominions and
the United States up to the date of Jay's treaty. Once
only, in 1788, Parliament interfered so far as to pass a
law, confining the trade with the West Indies to British-

built ships and to certain enumerated articles, in the
strict spirit of the Navigation system. Otherwise, inter-
course with the United States was throughout this period
subject at any moment to be modified or annulled by the
single will of the Executive; whereas that with other
nations, fixed by statute, the Navigation Act, could be
altered only by the legislature.¹

Of this British commercial policy, following immediately
upon the recognition of independence, Americans had
not the slightest reason to complain. They had insisted
upon being independent, and it would be babyish to fret
about the consequences, when unpalatable. It was un-
pleasant to find that Great Britain, satisfied that the
carrying trade was the first of her interests, upon which
depended her naval supremacy, rigorously excluded Ameri-
cans from branches of that trade before permitted to them;
but in so doing she was simply seeking her own advantage
by means of her own laws, as a nation does, for instance,
when it imposes heavy protective duties. It is quite as
legitimate to protect the carrying trade as any other form
of industry; and the Navigation Act was no new device,
for the special annoyance of Americans. It is very possible
that the action of Great Britain at this time was so stupid,
that, to use words of Jefferson's, the only way to prophesy
what she would do was to ascertain what she ought to do,
and infer the contrary. The rule, he said, never failed.
This particular stupidity, if such it were,—and there
was at least partial ground for the charge,—was simply
another case of a most common form of human dulness
of perception, preoccupation with a fixed idea. But were
the policy wise or foolish, as regards herself, towards the
Americans it was not a wrong, but an injury; and, conse-
quently, what the newly independent people had to do
was not to complain, but to strike back with retaliatory

commercial measures. Jefferson, no friend generally to coercive action, wrote concerning this particular situation, "It is not to the moderation or justice of others we are to trust for fair and equal access to market with our productions, or for our due share in the transportation of them; but to our own means of independence, and the firm will to use them."¹

Equally, when Great Britain, under the emergencies of the French Revolution, resorted to measures that overpassed her rights, either municipal or international, and infringed our own, the resort should have been to the remedy with which nations defend their rights, as distinct from their interest. The American people, then poor, and habituated to colonial dependence, failed to create for themselves in due time the power necessary to self-assertion; nor did they as a nation realize, what men like John Adams and Gouverneur Morris saw and preached, that in the complicated tangle of warring interests which constitutes every contemporary situation, the influence of any single factor depends, not merely upon its own value, but upon that value taken in connection with other conditions. A pound is but a pound; but when the balance is nearly equal, a pound may turn a scale. Because America could not possibly put afloat the hundred—or two hundred—ships-of-the-line which Great Britain had in commission, therefore, many argued, as many do to-day, it was vain to have any navy. "I believe," wrote Morris in 1794,² and few men better understood financial conditions, "that we could now maintain twelve ships-of-the-line, perhaps twenty, with a due proportion of frigates and smaller vessels. And I am tolerably certain that, while the United States of America pursue a just and liberal con-

² Morris to Randolph (Secretary of State), May 31, 1794. American State Papers, Foreign Relations, vol. i. p. 409. The italics are Morris's.
duct, with twenty sail-of-the-line at sea, no nation on earth will dare to insult them. I believe also, that, not to mention individual losses, five years of war would involve more national expense than the support of a navy for twenty years. One thing I am thoroughly convinced of, that, if we do not render ourselves respectable, we shall continue to be insulted.”

A singular, and too much disregarded, instance of the insults to which the United States was exposed, by the absence of naval strength, is found in the action of the Bar-

bary Powers towards our commerce, which scarcely dared to enter the Mediterranean. It is less known that this condition of things was eminently satisfactory to British politicians of the old-fashioned school, and as closely linked as was the Navigation system itself to the ancient rivalry with Holland. “Our ships,” wrote the Dutch statesman De Witt, who died in 1672, “should be well guarded by convoy against the Barbary pirates. Yet it would by no means be proper to free that sea of those pirates, because we should hereby be put upon the same footing with Eastlanders, [i. e., Baltic nations, Denmark, Sweden, etc.] English, Spaniards, and Italians: wherefore it is best to leave that thorn in the sides of those nations, whereby they will be distressed in that trade, while we by convoy engross all the European traffic and navigation.”¹ This cynical philosophy was echoed in 1784 by the cultured English statesman, Lord Sheffield, the intimate friend of the historian Gibbon, and editor of his memoirs. “If the great maritime powers know their interests,” he wrote, “they will not encourage the Americans to be carriers. That the Barbary States are an advantage to the maritime powers is obvious. If they were suppressed, the little states of Italy, etc., would have much more of the carrying trade.

¹ Quoted from De Witt’s Interest of Holland, in Macpherson’s Annals of
The Armed Neutrality would be as hurtful to the great maritime powers as the Barbary States are useful."

It may be a novel thought to many Americans, that at that time American commerce in the Mediterranean depended largely for protection upon Portuguese cruisers: its own country extending none. When peace was unexpectedly made between Portugal and Algiers in 1798, through the interposition of a British consular officer, a wail of dismay went up to heaven from American shipmen. "The conduct of the British in this business," wrote the American consul at Lisbon, "leaves no room to doubt or mistake their object, which was evidently aimed at us, and that they will leave nothing unattempted to effect our ruin." It proved, indeed, that the British consul's action was not that of his Government, but taken on his own initiative; but the incident not only recalls the ideas of the time, long since forgotten, but in its indications, both of British commercial security and American exposure, illustrates the theory of the Navigation Act as to the reciprocal influence of the naval and merchant services. There was then nothing, in the economical conditions of the United States, to forbid a navy stronger than the Portuguese; yet the consul, in his pitiful appeal to the Portuguese Court, had to write: "My countrymen have been led into their present embarrassment by confiding in the friendship, power, and protection of her Most Faithful Majesty," ... which " lulled our citizens into a fatal security." Two lamentable dependence upon others, for the respect we should have extorted ourselves, is shown in the instructions issued to Jay, on his mission to England in 1794. "It may be represented to the British Ministry, how productive of perfect conciliation it might be to the

1 Observations on the Commerce of the American States, 1783, p. 115.
Concerning this pamphlet, Gibbon wrote: "The Navigation Act, the palladium of Britain, was defended, perhaps saved, by his pen."

people of the United States, if Great Britain would use her influence with the Dey of Algiers for the liberation of the American citizens in captivity, and for a peace upon reasonable terms. It has been communicated from abroad, to be the fixed policy of Great Britain to check our trade in grain to the Mediterranean. This is too doubtful to be assumed, but fit for inquiry.\footnote{American State Papers, Foreign Relations, vol. i. p. 474.} The Dey had declared war in 1785, this being with the Barbary rulers the customary method of opening piratical action. "If the Dey makes peace with every one," said one of his captains to Nelson, "what is he to do with his ships?"

The experience of the succeeding fifteen years was to give ample demonstration of the truth of Morris's prophecy; but what is interesting now to observe is, that he, who certainly did not imagine twenty ships to be equal to a hundred, accurately estimated the deterrent force of such a body, prepared to act upon an enemy's communications, — or interests, — at a great distance from the strategic centre of operations. A valuable military lesson of the War of 1812 is just this: that a comparatively small force — a few frigates and sloops — placed as the United States Navy was, can exercise an influence utterly disproportionate to its own strength. Instances of Great Britain's extremity, subsequent to Morris's prediction, are easily cited. In 1796, her fleet was forced to abandon the Mediterranean. In 1799, a year after the Nile, Nelson had to implore a small Portuguese division not to relinquish the blockade of Malta, which he could not otherwise maintain. Under such conditions, apprehension of even a slight additional burden of hostility imposes restraint. Had Morris's navy existed in 1800, we probably should have had no War of 1812; that is, if Jefferson's passion for peace, and abhorrence of navies, could have been left out of the account. War, as Napoleon said, is a busi
ness of positions. The commercial importance of the United States, and the position of its navy relatively to the major interests of Great Britain, would together have produced an effect, to which, under the political emergency of the time, the mere commercial retaliation then attempted was quite inadequate. This distressed the enemy, but did not reduce him; and it bitterly alienated a large part of our own community, so that we went into the war a discordant, almost a disunited, nation.

During the years of American impotence under the early confederation, the trade regulations of the British Government, framed on the lines advocated by Lord Sheffield, met with a measure of success which was perhaps more apparent than real; due attention being scarcely paid to the actual loss entailed upon British planters by the heightened cost of supplies, and the consequent effect upon British commerce and navigation. “Under the present limited intercourse with America,” wrote the planter, Edwards, “the West Indies are subject to three sets of devouring monopolies: 1, the British ship-owners; 2, their agents in American ports; 3, their agents in the ports of the islands; all of whom exact an unnatural profit of the planters.”¹ Chalmers, looking only to the navigation of the kingdom, which these culprits represented, admits that in the principal supplies Great Britain cannot compete with America; but, “whatever may be the difference in price to the West Indians, this is but a small equivalent which they ought to pay to the British consumer, for enjoying the exclusive supply of sugar, rum, and other West India products.”² A few figures show conclusively that under all disadvantages the islands increased in actual prosperity, although they fell behind their French competitors, favored by a more liberal policy. In the quiet year 1770, before the revolt of the continent,

¹ West Indies, vol. ii. page 522, note. ² Opinions, p. 89.
the British West Indies shipped to the home country produce amounting to £3,279,204; in 1787 this had risen to £4,839,145, a gain of over 30 per cent. Between the same years, exports to the United States, limited after the peace to British ships, had fallen from £481,407 to £196,461. American produce, confined to British bottoms for admission to British colonies, had gone largely to the French islands, with which before the Revolution they could have only surreptitious intercourse. The result was that the British planter had to pay much more for his plantation supplies than did the French, who were furnished by American vessels, built and run much cheaper than British. He was rigidly forbidden also to seek stores in the French islands. Such circuitous intercourse with America, by depriving British ships of the long voyage to the continent, would place the French islands in the obnoxious relation of entrepot to their neighbors, which Holland had once occupied towards England. In all legislation minute care was taken to prevent such injury to navigation. Direct trade with British dominions was the fetish of British policy; circuitous trade its abomination.

Despite drawbacks, a distinct advance was observable also in British navigation; in the development of the British-American colonies, continental and island; and in the intercolonial intercourse and shipping. Immediately after the institution of the new government, the United States enacted laws protective of her own navigation; notably by an alien duty laid upon all foreign tonnage.


Bryan Edwards, himself a planter of the time, says (vol. ii. p. 522) that slaves and lumber had risen 37 per cent in the British islands, which he attributes to the extortion of the navigation monopoly, "under the present limited intercourse with America." Coxe (View, etc., p. 134) gives lists of comparative prices, in 1790 June to November, in the neighboring islands of Santo Domingo and Jamaica, which show forcibly the burdens under which the latter labored.
To consider the probable effects of this legislation, and of the new American institutions, upon British commerce and navigation, a committee of the Privy Council was appointed, to which we owe a digested and authoritative summary of the change of conditions effected by the British measures between 1783 and 1790. From its report, based upon averages of several years, it appears that in the direct trade between Great Britain and the United States, in which American ships stood on equal terms with British, there had been little variation in value of imports or exports, with the single exception of tobacco and rice. These two articles, which formerly had to pass through Great Britain as an entrepôt, now went direct to their destination. The American shipping—navigation—employed in the trade with Great Britain herself, was only one-third of the British; the respective tonnage being 26,564 and 52,595. As this was nearly the proportion of American to British built ships in the colonial period, American shipping before the adoption of the Constitution had not gained at all, under the most favorable treatment conceded to it in British dominions. The Report, indeed, estimated that it had lost by nearly 20 per cent.  

In the colonial trade, on the other hand, very marked British gains could be reported. The commercially backward communities of Canada, etc., forbidden now to admit American ships, or to import many articles from the United States, and given special privileges in the West Indies, had more than doubled their imports from the mother country; the amount rising from £379,411 to £829,088. These sums are not to be regarded in their own triviality, but as harbingers of a development, which it was hoped would fill the void in the British imperial

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1 Chalmers, in one of his works quoted by Macpherson (vol. iii. p. 359), estimates the annual entries of American-built ships to British ports, 1771-74, to be 34,587 tons. From this figure the falling off was marked.
system caused by the loss of the former colonies. The West Indies showed a more gradual increase, though still satisfactory; their exports since 1774 had risen 20 per cent. It was, however, in navigation, avowedly the chief aim of the protective legislation, that the intercolonial results were most encouraging. Through the exclusion of American competition, British tonnage to Canada and the neighboring colonies had enlarged fourfold, from 11,219 to 46,106. The national tonnage engaged between the West Indies and the mother country had grown from 80,482 to 133,736; 60 per cent. More encouraging still, from the ideal point of view of a restored system of mutual support, embracing both sides of the Atlantic, the tonnage employed between Canada and the West Indies had risen from 906 only in 1774, to 14,513 in 1789. In brief, after a careful and systematic examination of the whole field, the committee considered that British navigation had gained 111,638 tons by excluding Americans from branches of trade they had once shared, and still eagerly desired.

The effects of the system were most conspicuous in the trade between the West Indies and the United States. The tonnage here employed had fallen from 107,739, before the war, to 62,738. The reflections of the Committee upon this particular are so characteristic of national convictions as to be worth quoting.¹ "This decrease is rather less than half what it was before the war;² but before the war five-eighths belonged to merchants, permanent inhabitants of the countries now under the dominion of the United States, and three-eighths to British merchants residing occasionally in the said countries. At that time, very few vessels belonging to British merchants, resident in the British European dominions, or in the British

² This awkward expression means that the amount of decrease was rather less than half the before-the-war total.
Islands in the West Indies, had a share in this trade. The vessels employed in this trade can now only belong to British subjects residing in the present British dominions. Many vessels now go from the ports of Great Britain, carrying British manufactures to the United States, there load with lumber and provisions for the British Islands in the West Indies, and return with the produce of these islands to Great Britain. The whole of this branch of freight may also be considered as a new acquisition, and was obtained by your Majesty's Order in Council before mentioned,1 which has operated to the increase of British Navigation, compared to that of the United States in a double ratio: but it has taken from the navigation of the United States more than it has added to that of Great Britain."

The last sentence emphasizes the fact, which John Adams had noted, that the object of the Navigation system was scarcely more defensive than offensive, in the military sense of the word. The Act carried provisions meant distinctly to impede the development of foreign shipping, as far as possible to do so by municipal regulation. The prohibition of entrance to a port of Great Britain by a foreign trader, unless three-fourths manned by citizens of the country whose flag she bore, was distinctly offensive in intent. But for this, other states might increase their tonnage by employing seamen not their own, which Great Britain could not do without weakening the reserves available for her navy, and imperative to her defence. Rivalry was thus engendered, and became bitter and apprehensive in proportion to the national interests involved; but at no time had such considerations persuaded the country to depart from its purpose. "The foreign war which those measures first brought upon us, and

1 June 18, 1784, substantially the reissue of that of Dec. 26, 1783, which Reeves (p. 298) considers the standard exemplar.
the odium which they have never ceased to cause, to the present day (1792) among neighboring nations, have not induced the legislature to give up any of its principles. In the case of the United States, the exasperation aroused was very great. It perpetuated the national animosity surviving from the War of Independence, and provoked retaliation. Before the formation of the better Union this was too desultory and divided to have much effect, and the artificial system of which Sheffield was the chief public champion had the appearance of success which has been described; but as soon as the thirteen states could wield their power as one whole, under a system at once consistent and permanent, American navigation began to make rapid headway. In 1790 there entered American ports from abroad 355,000 tons of American shipping and 251,000 foreign, of which 217,000 were British. After one year of the discriminating tonnage duties laid by the national Congress, the American tonnage entering home ports from Great Britain had risen, from the 26,564 average of the three years, 1787 to 1789, ascertained by the British committee, to 43,580. In 1801 there entered 799,304 tons of native shipping, and but 138,000 foreign. The amount of British among the latter is not stated; but in the year 1800 there cleared from Great Britain, under her own flag, for the United States, but 14,381 tons. This reversal of the conditions in 1787–89, before quoted, was the result of a gradual progress, noticeable immediately after the American imposition of tonnage duties, and increasing up to 1793, when it was accelerated by the war between Great Britain and France.

1 Reeves, p. 431.
3 Ibid., Foreign Relations, vol. i. p. 301.
5 Ibid., p. 584.
7 Ante, pp. 77, 78.
It is carefully to be remembered that the British committee, representing strictly the prepossessions of the body by which it was constituted, looked primarily to the development of national carrying trade. "As the security of the British dominions principally depends on the greatness of your Majesty's naval power, it has ever been the policy of the British Government to watch with a jealous eye every attempt that has been made by foreign nations to the detriment of its navigation; and even in cases where the interests of commerce and those of navigation could not be wholly reconciled, the Government of Great Britain has always given the preference to the interests of navigation; and it has never yet submitted to the imposition of any tonnage duties by foreign nations on British ships trading to their ports, without proceeding immediately to retaliation." It had, however, submitted to several such measures, retaliatory for the exclusion from the West India trade, enacted by the separate states in the years 1783 to 1789; as well as to other legislation, taxing British shipping by name much above that of other foreigners. This quiescence was due to confidence, that the advantages possessed by Great Britain would enable her to overcome all handicaps. It was therefore with satisfaction that, after six years of commercial antagonism, the committee was able, not only to report the growth of British shipping, already quoted, but to show by the first official statement of entries issued by the American Government, for the first year of its own existence, that for every five American tons entering American ports from over sea, there entered also three British; and that of the whole foreign tonnage there were six British to one of all other nations together.

Upon the whole, therefore, while regretting the evidence in the American statement which showed increasing activ-

1 Report of the Committee, p. 85. 2 Ibid., p. 52.
ity by American shipping over that ascertained by themselves for the previous years,—to be accounted for, as was believed, by transient circumstances,—the committee, after consultation with the leading merchants in the American trade, thought better to postpone retaliation for the new tonnage duties, which contained no invidious distinction in favor of other foreign shipping against British. The system of trade regulation so far pursued had given good results, and its continuance was recommended; though bitterly antagonizing Americans, and maintaining ill-will between the two countries. Upon one point, especially desired by the United States, the committee was particularly firm. It considered that its Government might judiciously make one proposition—and one only—for a commercial treaty; namely, that there should be entire equality of treatment, as to duties and tonnage, towards the ships of both nations in the home ports of each other.

"But if Congress should propose (as they certainly will) that this principle of equality should be extended to the ports of our Colonies and Islands, and that the ships of the United States should there be treated as British ships, it should be answered that this demand cannot be admitted even as a subject of negotiation. ... This branch of freight is of the same nature with the freight from one American state to another" (that is, trade internal to the empire is essentially a coasting trade). "Congress has made regulations to confine the freight, employed between the different states, to the ships of the United States, and Great Britain does not object to this restriction."1 "The great advantages which have resulted from excluding American ships appear in the accounts given in this report; many of the merchants and planters of the West Indies, who formerly resisted this advice, now acknowledge the wisdom of it."2

1 Report, p. 96.  
2 Ibid., p. 94.
The committee recognized that exclusion from the carrying trade of the British West Indies was in some degree compensated to the American carrier, by the permission given by the Government of France for vessels not exceeding sixty tons to trade with her colonies, actually much greater producers, and therefore larger customers. Santo Domingo in particular, in the period following the American war, had enjoyed a heyday of prosperity, far eclipsing that of all the British islands together. This was due partly to natural advantages, and partly to social conditions,—the planters being generally resident, which the British were not; but cheaper supplies through free intercourse with the American continent also counted for much. From the French West Indies there entered the United States in 1790, 101,417 tons of shipping, of which only 3,925 were French.¹ From the British Islands there came 90,375, but of these all but 4,057 were British.² Returning, the exports from the United States to the two were respectively, $3,284,656 and $2,077,757.³ The flattering testimony borne by these figures to the meagerness of French navigation, in the particular quarter, needed doubtless to be qualified by reference to their home trade from the West Indies, borne in French ships. This amounted in 1788 to 296,435 tons from Santo Domingo alone;⁴ whereas the British trade from all their islands employed but 183,736.⁵ This, however, was the sole great carrying trade of France; to the United States she sent from her home ports less than 13,000 tons.

It was the opinion of the British committee that the privilege conceded to American shipping in the French islands was so contrary to established colonial policy as to be of doubtful continuance. Still, in concluding its report

² Ibid., p. 45.
³ Ibid., p. 45.
⁴ Cox, p. 171.
⁵ Committee’s estimate; Report, p. 43.
with a summary of American commercial conditions, which it deemed were in a declining way, it took occasion to utter a warning, based upon these relations of America with the foreign colonies. In case of a commercial treaty, “Should it be proposed to treat on maritime regulations, any article allowing the ships of the United States to protect the property of the enemies of Great Britain in time of war” (that is, the flag to cover the goods), “should on no account be admitted. It would be more dangerous to concede this privilege to the United States than to any other foreign country. From their situation, the ships of these states would be able to cover the whole trade of France and Spain with their islands and colonies, in America and the West Indies, whenever Great Britain shall be engaged with either of those Powers; and the navy of Great Britain would, in such case, be deprived of the means of distressing the enemy, by destroying his commerce and thereby diminishing his resources.” It is well to note in these words the contemporary recognition of the importance of the position of the United States; of the value of the colonial trade; of the bearing of commerce destruction on war, by “diminishing the resources” of an enemy; and of the opportunity of the United States, “from their situation,” to cover the carriage of colonial produce to Europe; for upon these several points turned much of the troubles, which by their accumulation caused mutual exasperation, and established an antagonism that inevitably lent itself to the war spirit when occasion arose. The specific warning of the committee was doubtless elicited by the terms of the then recent British commercial treaty with France, in 1786, by which the two nations had agreed that, in case of war to which one was a party, the vessels of the other might freely carry all kinds of goods, the property of any person or nation, except contraband. Such a concession could be made safely to France,—was in fact perfectly
one-sided in favoring Great Britain; but to America it would open unprecedented opportunity.

To the state of things so far described came the French Revolution; already begun, indeed, when the committee sat, but the course of which could not yet be foreseen. Its coincidence with the formation of the new government of the United States is well to be remembered; for the two events, by their tendencies, worked together to promote the antagonism between the United States and Great Britain, which was already latent in the navigation system of the one and the maritime aptitudes of the other. Washington, the first American President, was inaugurated in March, 1789; in May, the States General of France met. In February, 1792, the French Republic declared war against Great Britain, and in March Washington entered on his second term. In the intervening four years the British Government had persisted in maintaining the exclusion of American carrying trade from her colonial ports. During the same period the great French colony Santo Domingo had undergone a social convulsion, which ended in the wreck of its entire industrial system by the disappearance of slavery, and with it of all white government. The huge sugar and coffee product of the island vanished as a commercial factor, and with it the greater part of the colonial carriage of supplies, which had indemnified American shippers and agriculturists for their exclusion from British ports. Of 167,399 American tonnage entering American ports from the West Indies in 1790, 101,417 had been from French islands.

The removal of so formidable a competitor as Santo Domingo of course inured to the advantage of the British sugar and coffee planter, who was thus more able to bear the burden laid upon him to maintain the navigation of the empire, by paying a heavy percentage on his supplies. This, however, was not the only change in conditions
affecting commerce and navigation. By 1793 it had become evident that Canada, Nova Scotia, and their neighbors, could not fill the place in an imperial system which it had been hoped they would take, as producers of lumber and food stuffs. This increased the relative importance of the West India Islands to the empire, just when the rise in price of sugar and coffee made it more desirable to develop their production. Should war come, the same reason would make it expedient to extend by conquest British productive territory in the Caribbean, and at the same time to cut off the supplies of such enemy's possessions as could not be subdued; thus crippling them, and removing their competition by force, as that of Santo Domingo had been by industrial ruin. These considerations tended further to fasten the interest of Great Britain upon this whole region, as particularly conducive to her navigation system. That cheapening supplies would stimulate production, to meet the favorable market and growing demands of the world, had been shown by the object-lesson of the French colonies; though as yet the example had not been followed.

At this time also Great Britain had to recognize her growing dependence upon the sea, because her home territory had ceased to be self-sufficing. Her agriculture was becoming inadequate to feeding her people, in whose livelihood manufactures and commerce were playing an increasing part. Both these, as well as food from abroad, required the command of the sea, in war as in peace, to import raw materials and export finished products; and control of the sea required increase of naval resources, proportioned to the growing commercial movement. According to the ideas of the age, the colonial monopoly was the surest means to this. It was therefore urgent to resort to measures which should develop the colonies; and the question was inevitable whether reserving to British navigation the trade by which they were supplied was not more
than compensated by the diminished production, with its
effect in lessening the cargoes employing shipping for
the homeward voyage.

Thus things were when war broke out. The two objects,
or motives, which have been indicated, came then at once
into play. The conquest of the French West Indies, a
perfectly legitimate move, was speedily undertaken; and
meanwhile orders passing the bounds of recognized inter-
national law were issued, to suppress, by capture, their
intercourse with the United States, alike in import and
export. The blow of course fell upon American shipping,
by which this traffic was almost wholly maintained. This
was the beginning of a long series of arbitrary measures,
dictated by a policy uniform in principle, though often
modified by dictates of momentary expediency. It lasted
for years in its various manifestations, the narration of
which belongs to subsequent chapters. Complementary
to this was the effort to develop production in British
colonies, by extending to them the neutral carriage denied
to their enemies. This was effected by allowing direct
trade between them and the United States to American
vessels of not over seventy tons; a limit substantially
the same as that before imposed by France, and designed
to prevent their surreptitiously conveying the cargoes to
Europe, to the injury of British monopoly of the conti-
nental supply, effected by the entrepôt system, and doubly
valuable since the failure of French products.

This concession to American navigation, despite the
previous opposition, had become possible to Pitt, partly
because its advisability had been demonstrated and the
opportunity recognized; partly also, because the immense
increase of the active navy, caused by the war, created a
demand for seamen, which by impressment told heavily
upon the merchant navigation of the kingdom, fostered for
this very purpose. To meet this emergency, it was clearly
politic to devolve the supply of the British West Indies upon neutral carriers, who would enjoy an immunity from capture denied to merchant ships of a belligerent, as well as relieve British navigation of a function which it had never adequately fulfilled. The measure was in strict accord with the usual practice of remitting in war the requirement of the Navigation Act, that three-fourths of all crews should be British subjects; by which means a large number of native seamen became at once released to the navy. To throw open a reserved trade to foreign ships, and a reserved employment to foreign seamen, are evidently only different applications of the one principle, viz.: to draw upon foreign aid, in a crisis to which the national navigation was unequal.

Correlative to these measures, defensive in character, was the determination that the enemy should be deprived of these benefits; that, so far as international law could be stretched, neutral ships should not help him as they were encouraged to help the British. The welfare of the empire also demanded that native seamen should not be allowed to escape their liability to impressment, by serving in neutral vessels. The lawless measures taken to insure these two objects were the causes avowed by the United States in 1812 for declaring war. The impressment of American seamen, however, although numerous instances had already occurred, had not yet made upon the national consciousness an impression at all proportionate to the magnitude of the wrong; and the instructions given to Jay, as special envoy in 1794, while covering many points at issue, does not mention this, which eventually overtopped all others.

1 American State Papers, Foreign Relations, vol. i. p. 472.
JOHN JAY.

From the painting by Gilbert Stuart in Bed ford (Jay) House, Katonah, N. Y.
CHAPTER III

FROM JAY’S TREATY TO THE ORDERS IN COUNCIL
1794-1807

WHILE there were many matters in dispute between the two countries, the particular occasion of Jay’s mission to London in 1794 was the measures injurious to the commerce of the United States, taken by the British Government on the outbreak of war with France, in 1793. Neutrals are certain to suffer, directly and indirectly, from every war, and especially in maritime wars; for then the great common of all nations is involved, under conditions and regulations which by general consent legalize interference, suspension, and arrest of neutral voyages, when conflicting with acknowledged belligerent rights, or under reasonable suspicion of such conflict. It was held in the United States that in the treatment of American ships Great Britain had transcended international law, and abused belligerent privilege, by forced construction in two particulars. First, in June, 1793, she sent into her own ports American vessels bound to France with provisions, on the ground that under existing circumstance these were contraband of war. She did indeed buy the cargoes, and pay the freight, thus reducing the loss to the shipper; but he was deprived of the surplus profit arising from extraordinary demand in France, and it was claimed besides that the procedure was illegal. Secondly, in November of the same year, the British Government directed the seizure of “all ships laden with goods the produce of any
colony belonging to France, or carrying provisions or other supplies for the use of any such colony." Neutrals were thus forbidden either to go to, or to sail from, any French colony for purposes of commercial intercourse. For the injuries suffered under these measures Jay was to seek compensation.

The first order raised only a question of contraband, of frequent recurrence in all hostilities. It did not affect the issues which led to the War of 1812, and therefore need not here be further considered. But the second turned purely on the question of the intercourse of neutrals with the colonies of belligerents, and rested upon those received opinions concerning the relations of colonies to mother countries, which have been related in the previous chapters. The British Government founded the justification of its action upon a precedent established by its own Admiralty courts, which, though not strictly new, was recent, dating back only to the Seven Years’ War, 1756-63, whence it had received the name of the Rule of 1756. At that time, in the world of European civilization, all the principal maritime communities were either mother countries or colonies. A colonial system was the appendage of every maritime state; and among all there obtained the invariable rule, the formulation of which by Montesquieu has been already quoted, that "commercial monopoly is the leading principle of colonial intercourse," from which foreign states were rigorously excluded. Dealing with such a recognized international relation, at a period when colonial production had reached unprecedented proportions, the British courts had laid down the principle that a trade which a nation in time of peace forbade to foreigners could not be extended to them, if neutrals, in time of war, at the will and for the convenience of the belligerent; because by such employment they were "in effect incorporated in the enemy’s navigation."
having adopted his commerce and character, and identified themselves with his interests and purposes.”

During the next great maritime war, that of American Independence, the United States were involved as belligerents, and the only maritime neutrals were Holland and the Baltic States. These drew together in a league known historically as the Armed Neutrality of 1780, in opposition to certain British interpretations of the rights of neutrals and belligerents; but in their formulated demands that of open trade with the colonies of belligerents does not appear, although there is found one closely cognate to it,—an asserted right to coasting trade, from port to port, of a country at war. The Rule of 1756 therefore remained, in 1793, a definition of international maritime law laid down by British courts, but not elsewhere accepted; and it rested upon a logical deduction from a system of colonial administration universal at that period. The logical deduction may be stated thus. The mother country, for its own benefit, reserves to itself both the inward and outward trade; the products of the colony, and the supplying of it with necessaries. The carriage of these commodities is also confined to its own ships. Colonial commerce and navigation are thus each a national monopoly. To open to neutrals the navigation, the carriage of products and supplies, in time of war, is a war measure simply, designed to preserve a benefit endangered by the other belligerent. As a war measure, it tends to support the financial and naval strength of the nation employing it; and therefore, to an opponent whose naval power is capable of destroying that element of strength, the stepping in of a neutral to cover it is clearly an injury. The neutral so doing commits an unfriendly act, partial between the two combatants; because it aids the one in a proceeding, the origin and object of which are purely belligerent.

1 Wheaton’s International Law, p. 793.
When the United States in 1776 entered the family of nations, she came without colonies, but in the war attendant upon her liberation she had no rights as a neutral. In the interval of peace, between 1783 and 1798, she had endeavored, as has been seen, to establish between herself and the Caribbean region those conditions of open navigation which were indicated as natural by the geographical relations of the two and their several products. This had been refused by Great Britain; but France had conceded it on a restricted scale, plainly contrived, by the limitation of sixty tons on the size of vessels engaged, to counteract any attempt at direct carriage from the islands to Europe, which was not permitted. Under these circumstances the United States was brought into collision with the Rule of 1756, for the first time, by the Order in Council of November 9, 1798. A people without colonies, and with a rapidly growing navigation, could have no sympathy with a system coextensive with Europe, which monopolized the carriage of colonial products. The immediate attitude assumed was one of antagonism; and the wrong as felt was the greater, because the direct intercourse between the United States and the then great French colonies was not incidental to war, but had been established in peace. In principle, the Rule rested for its validity upon an exception made in war for the purposes of war.

The British Government in fact had overlooked that the Rule had originated in European conditions; and, if applicable at all to the new transatlantic state, it could only be if conditions were the same, or equivalent. Till now, by universal usage, trade from colonies had been only to the mother country; the appearance of an American state with no colonies introduced two factors hitherto non-existent. Here was a people not identified with a general system of colonial exclusiveness; and also, from their geographical situation, it was possible for a European government to per-
mit them to trade with its colonies, without serious trespass on the privileges reserved to the mother country. The monopoly of the latter consisted not only in the commerce and carrying trade of the colony, but in the _entrepôt_, that is, in the receipt and storage of the colonial produce, and its distribution to less favored European communities, — the profit, in short, of the middleman, or broker. France had recognized, though but partially, this difference of conditions, and in somewhat grudging manner had opened her West Indian ports to American vessels, for intercourse with their own country. This trade, being permitted in peace, did not come under the British Rule; therefore by its own principle the seizures under it were unlawful. Accordingly, on January 8, 1794, the order was revoked, and the application limited to vessels bound from the West Indies direct to Europe.

This further Order in Council preserved the principle of the Rule of 1756, but it removed the cause of a great number of the seizures which had afflicted American shipping. There were nevertheless, among these, some cases of vessels bound direct to France from French colonies, laden with colonial produce; one of which was the first presented to Jay on his arrival in London. In writing to the Secretary of State he says, “It unfortunately happens that this is not among the strongest of the cases;” and in a return made three years later to Congress, of losses recovered under the treaty, this vessel’s name does not appear. In the opinion of counsel, submitted to Jay, it was unlikely that the case would be reversed on appeal, because it unequivocally fell under the Rule.¹ It is therefore to be inferred that this principle, the operation of which was revived so disastrously in 1805, was not surrendered by the British Government in 1794. In fact, in the discussions between Mr. Jay and the British Minister of For-

eign Affairs, there seems to have been on both sides a disposition to avoid pronouncements upon points of abstract right. It remained the constant policy of British negotiators, throughout this thorny period, to seek modes of temporary arrangement, which should obviate immediate causes of complaint; leaving principles untouched, to be asserted, if desirable, at a more favorable moment. This was quite contrary to the wishes of the United States Government, which repeatedly intimated to Jay that in the case of the Rule of 1756 it desired to settle the question of principle, which it denied. To this it had attached several other topics touching maritime neutral rights, such as the flag covering the cargo, and matters of contraband.¹

Jay apparently satisfied himself, by his interviews and observation of public feeling in England, that at the moment it was vain for a country without a navy to expect from Great Britain any surrender of right, as interpreted by her jurists; that the most to be accomplished was the adoption of measures which should as far as possible extend the immediate scope of American commerce, and remove its present injuries, presenting withal a probability of future further concessions. In his letter transmitting the treaty, he wrote: “That Britain, at this period, and involved in war, should not admit principles which would impeach the propriety of her conduct in seizing provisions bound to France, and enemy’s property on board neutral vessels, does not appear to me extraordinary. The articles, as they now stand, secure compensation for seizures, and leave us at liberty to decide whether they were made in such cases as to be warranted by the existing law of nations.”²

² Ibid., p. 506.
ment by the treaty, it would preserve the right to its own opinion as to whether the decision was in accordance with admitted law, binding in the future. In short, acceptance of the Rule of 1756 would not be affected by the findings upon the claims. If adverse to Great Britain, she could still assert the Rule in times to come, if expedient; if against the United States, she likewise, while submitting, reserved the right of protest, with or without arms, against its renewed enforcement.

"As to the principles we contend for," continued Jay, "you will find them saved in the conclusion of the twelfth article, from which it will appear that we still adhere to them." This conclusion specifies that after the termination of a certain period, during which Great Britain would open to American vessels the carrying trade between her West India Islands and the United States, there should be further negotiation, looking to the extension of mutual intercourse; "and the said parties will then endeavor to agree whether, in any, and what, cases neutral vessels shall protect enemy's property; and in what cases provisions and other articles, not generally contraband, may become such. But in the meantime, their conduct towards each other in these respects shall be regulated by the articles hereinafter inserted on those subjects." 1 The treaty therefore was a temporary arrangement, to meet temporary difficulties, and involved no surrender of principle on either side. Although the Rule of 1756 is not mentioned, it evidently shared the same fate as the other American propositions looking to the settlement of principles; the more so that subsequent articles admitted, not only the undoubted rule that the neutral flag did not cover enemy's goods, but also the vehemently disputed claim that naval stores and provisions were, or might be, contraband of war. Further evidence of the understanding of Great Britain in

this matter is afforded by a letter of the law adviser of the Crown, transmitted in 1801 by the Secretary for Foreign Affairs to Mr. King, then United States Minister. "The direct trade between the mother country and its colonies has not during this present war been recognized as legal, either by his Majesty's Government or by his tribunals."\footnote{American State Papers, Foreign Relations, vol. ii. p. 491.}

It is to be inferred that the Administration and the Senate, while possibly thinking Jay too yielding as a negotiator, reached the conclusion that his estimate of British feeling, formed upon the spot, was correct as to the degree of concession then to be obtained. At all events, the treaty, which provided for mixed commissions to adjudicate upon the numerous seizures made under the British orders, and, under certain conditions, admitted American vessels to branches of British trade previously closed to them, was ratified with the exception of the twelfth article. This conferred on Americans the privilege, long and urgently desired, of direct trade between their own country and the British West Indies on the same terms as British ships, though in vessels of limited size. Greatly desired as this permission had been, it came coupled with the condition, not only that cargoes from the islands should be landed in the United States alone, but also, while the concession lasted, American vessels should not carry "molasses, sugar, coffee, cocoa, or cotton" from the United States to any part of the world. By strict construction, this would prevent re-exporting the produce of French or other foreign colonies; a traffic, the extent of which during this war may be conceived by the returns for a single year, 1796, when United States shipping carried to Europe thirty-five million pounds of sugar and sixty-two million pounds of coffee, products of the Caribbean region. This article was rejected by the Senate, and the
treaty ratified without it; but the coveted privilege was continued by British executive order, the regulations in the matter being suspended on account of the war, and the trade opened to American as well as British ships. Ostensibly a favor, not resting on the obligations of treaty, but on the precarious ground of the Government's will, its continuance was assured under the circumstances of the time by its practical utility to Great Britain; for the trade of that country, and its vital importance in the prevailing wars, were developing at a rate which outstripped its own tonnage. The numbers of native seamen were likewise inadequate, through the heavy demands of the Navy for men. The concurrence of neutrals was imperative. Under the conditions it was no slight advantage to have the islands supplied and the American market retained, by the services of American vessels, leaving to British the monopoly of direct carrying between the colonies and Europe.

Although vexations to neutrals incident to a state of war continued subsequent to this treaty, they turned upon points of construction and practice rather than upon principle. Negotiation was continuous; and in September, 1800, towards the close of Adams's administration, Mr. John Marshall, then Secretary of State, summed up existing complaints of commercial injury under three heads,—definitions of contraband, methods of blockade, and the unjust decisions of Vice-Admiralty Courts; coupled with the absence of penalty to cruisers making unwarranted captures, which emboldened them to seize on any ground, because certain to escape punishment. But no formal pronouncement further injurious to United States commerce was made by the British Government during this war, which ended in October, 1801, to be renewed eighteen months later. On the contrary, the progress of events in the West Indies, by its favorable effect upon British commerce, assisted Pitt in taking the more liberal measures to
which by conviction he was always inclined. The destruction of Haïti as a French colony, and to a great degree as a producer of sugar and coffee, by eliminating one principal source of the world’s supply, raised values throughout the remaining Caribbean; while the capture of almost all the French and Dutch possessions threw their commerce and navigation into the hands of Great Britain. In this swelling prosperity the British planter, the British carrier, and the British merchant at home all shared, and so bore without apparent grudging the issuance of an Order, in January, 1798, which extended to European neutrals the concession, made in 1796 to the United States, of carrying West Indian produce direct from the islands to their own country, or to Great Britain; not, however, to a hostile port, or to any other neutral territory than their own.

Although this Order in no way altered the existing status of the United States, it was embraced in a list of British measures affecting commerce, transmitted to Congress in 1808. From the American standpoint this was accurate; for the extension to neutrals to carry to their own country, and to no other, continued the exclusion of the United States from a direct traffic between the belligerent colonies and Europe, which she had steadily asserted to be her right, but which the Rule of 1756 denied. The utmost the United States had obtained was the restitution of privileges enjoyed by them as colonists of Great Britain, in trading with the British West Indies; and this under circumstances of delay and bargain which showed clearly that the temporary convenience of Great Britain was alone consulted. No admission had been made on the point of right, as maintained by America. On the contrary, the Order of 1798 was at pains to state as its motive no change of principle, but “consideration of the present state of the commerce of Great Britain.

1 American State Papers, Foreign Relations, vol. iii. p. 263.
as well as of that of neutral countries,” which makes it “expedient.”

Up to the preliminaries of peace in 1801, nothing occurred to change that state of commerce which made expedient the Order of January, 1798. It was renewed in terms when war again began between France and Great Britain, in May, 1803. In consideration of present conditions, the direct trade was permitted to neutral vessels between an enemy’s colony and their own country. The United States remained, as before, excluded from direct carriage between the West Indies and Europe; but the general course of the British Administration of the moment gave hopes of a line of conduct more conformable to American standards of neutral rights. Particularly, in reply to a remonstrance of the United States, a blockade of the whole coast of Martinique and Guadeloupe, proclaimed by a British admiral, was countermanded; instructions being sent him that the measure could apply only to particular ports, actually invested by sufficient force, and that neutrals attempting to enter should not be captured unless they had been previously warned. Although no concession of principle as to colonial trade had been made, the United States acquiesced in, though she did not accept, the conditions of its enforcement. These were well understood by the mercantile community, and were such as admitted of great advantage, both to the merchant and to the carrying trade. In 1808, Mr. Monroe, justifying his negotiations of 1806, wrote that, even under new serious differences which had then arisen, “The United States were in a prosperous and happy condition, compared with that of other nations. As a neutral Power, they were almost the exclusive carriers of the commerce of the whole world; and in commerce they flourished beyond example, notwithstanding the losses they occasionally suffered.”

1 American State Papers, Foreign Relations, vol. iii, p. 265.
2 Ibid., p. 266.
3 Ibid., p. 175.
Under such circumstances matters ran along smoothly for nearly two years. In May, 1804, occurred a change of administration in England, bringing Pitt again into power. As late as November 8 of this year, Jefferson in his annual message said, "With the nations of Europe, in general, our friendship and intercourse are undisturbed; and, from the governments of the belligerent powers, especially, we continue to receive those friendly manifestations which are justly due to an honest neutrality." Monroe in London wrote at the same time, "Our commerce was never so much favored in time of war." These words testify to general quietude and prosperity under existing conditions, but are not to be understood as affirming absence of subjects of difference. On the contrary, Monroe had been already some time in London, charged to obtain from Great Britain extensive concessions of principle and practice, which Jefferson, with happy optimism, expected a nation engaged in a life and death struggle would yield in virtue of terms of argument, maintaining views novel to it, advanced by a country enjoying the plenitude of peace, but without organized power to enforce its demands.

About this time, but as yet unknown to the President, the question had been suddenly raised by the British Government as to what constituted a direct trade; and American vessels carrying West Indian products from the United States to Europe were seized under a construction of "direct," which was affirmed by the court before whom the cases came for adjudication. As Jefferson's expressions had reflected the contentment of the American community, profiting, as neutrals often profit, by the misfortunes of belligerents, so these measures of Pitt proceeded from the discontents of planters, shippers, and merchants. These had come to see in the prosperity of American shipping, and the gains of American merchants, the measure of their

1 American State Papers, Foreign Relations, vol. iii. p. 98.
own losses by a trade which, though of long standing, they now claimed was one of direct carriage, because by continuous voyage, between the hostile colonies and the continent of Europe. The losses of planter and merchant, however, were but one aspect of the question, and not the most important in British eyes. The products of hostile origin carried by Americans to neutral or hostile countries in Europe did by competition reduce seriously the profit upon British colonial articles of the same kind, to the injury of the finances of the kingdom; and the American carriers, the American ships, not only supplanted so much British tonnage, but were enabled to do so by British seamen, who found in them a quiet refuge — relatively, though not wholly, secure — from the impressment which everywhere pursued the British merchant ship. It was a fundamental conviction of all British statesmen, and of the general British public, that the welfare of the navy, the one defence of the empire, depended upon maintaining the carrying trade, with the right of impressment from it; and Pitt, upon his return to office, had noted “with considerable concern, the increasing acrimony which appears to pervade the representations made to you [the British Minister at Washington] by the American Secretary of State on the subject of the impressment of seamen from on board American ships.”

The issue of direct trade was decided adversely to the contention of the United States, in the test case of the ship “Essex,” in May, 1805, by the first living authority in England on maritime international law, Sir William Scott. Resting upon the Rule of 1756, he held that direct trade from belligerent colonies to Europe was forbidden to neutrals, except under the conditions of the relaxing Orders of 1798 and 1803; but the privilege to carry to their own country having been by these extended, it was

conceded, in accordance with precedent, that products thus imported, if they had complied with the legal requirements for admission to use in the importing country, thenceforth had its nationality. They became neutral in character, and could be exported like native produce to any place open to commerce, belligerent or neutral. United States shippers, therefore, were at liberty to send even to France French colonial products which had been thus Americanized. The effect of this procedure upon the articles in question was to raise their price at the place of final arrival, by all the expense incident to a broken transit; by the cost of landing, storing, paying duties, and reshipping, together with that of the delay consequent upon entering an American port to undergo these processes. With the value thus enhanced upon reaching the continent of Europe, the British planter, carrier, and merchant might hope that British West India produce could compete; although various changes of conditions in the West Indies, and Bonaparte's efforts at the exclusion of British products from the continent, had greatly reduced their market there from the fair proportions of the former war.

In the cases brought before Sir William Scott, however, it was found that the duties paid for admission to the United States were almost wholly released, by drawback, on re-exportation; so that the articles were brought to the continental consumer relieved of this principal element of cost. He therefore ruled that they had not complied with the conditions of an actual importation; that the articles had not lost their belligerent character; and that the carriage to Europe was by direct voyage, not interrupted by an importation. The vessels were therefore condemned.

The immediate point thus decided was one of construction, and in particular detail hitherto unsettled. The law adviser of the Crown had stated in 1801, as an accepted
precedent, "that landing the goods and paying the duties in the neutral country breaks the continuity of the voyage;" ¹ but the circumstance of drawback, which belonged to the municipal prerogative of the independent neutral state, had not then been considered. The foundation on which all rested was the principle of 1756. The underlying motive for the new action taken — the protection of a British traffic — linked the War of 1812 with the conditions of colonial dependence of the United States, which was a matter of recent memory to men of both countries still in the vigor of life. The American found again exerted over his national commerce a control indistinguishable in practice from that of colonial days; from what port his ships should sail, whither they might go, what cargoes they might carry, under what rules be governed in their own ports, were dictated to him as absolutely, if not in as extensive detail, as before the War of Independence. The British Government placed itself in the old attitude of a sovereign authority, regulating the commerce of a dependency with an avowed view to the interest of the mother country. This motive was identical with that of colonial administration; the particular form taken being dictated, of course, then as before, by the exigencies of the moment, — by a "consideration of the present state of the commerce of this country." Messrs. Monroe and Pinkney, who were appointed jointly to negotiate a settlement of the trouble, wrote that "the British commissioners did not hesitate to state that their wish was to place their own merchants on an equal footing in the great markets of the continent with those of the United States, by burthening the intercourse of the latter with severe restrictions." ² The wish was allowable; but the method, the regulation of American commercial movement by British force, resting for justifi-

² Ibid., vol. iii. p. 145.
cation upon a strained interpretation of a contested belligerent right, was naturally and accurately felt to be a re-imposition of colonial fetters upon a people who had achieved their independence.

The motive remained; and the method, the regulation of American trade by British orders, was identical in substance, although other in form, with that of the celebrated Orders in Council of 1807 and 1809. Mr. Monroe, who was minister to England when this interesting period began, had gone to Spain on a special mission in October, 1804, shortly after his announcement, before quoted, that "American commerce was never so much favored in time of war." "On no principle or pretext, so far, has more than one of our vessels been condemned." Upon his return in July, 1805, he found in full progress the seizures, the legality of which had been affirmed by Sir William Scott. A prolonged correspondence with the then British Government followed, but no change of policy could be obtained. In January, 1806, Pitt died; and the ministry which succeeded was composed largely of men recently opposed to him in general principles of action. In particular, Mr. Fox, between whom and Pitt there had been an antagonism nearly lifelong, became Secretary for Foreign Affairs. His good dispositions towards America were well known, and dated from the War of Independence. To him Monroe wrote that under the recent measures "about one hundred and twenty vessels had been seized, several condemned, all taken from their course, detained, and otherwise subjected to heavy losses and damages." ¹ The injury was not confined to the immediate sufferers, but reacted necessarily on the general commercial system of the United States.

In his first conversations with Monroe, Fox appeared to coincide with the American view, both as to the impro-

JAMES MONROE.

From the painting by Gilbert Stuart in the possession of Hon. T. Jefferson Coolidge.
priety of the seizures and the general right of the United States to the trade in dispute, under their own interpretation of it; namely, that questions of duties and drawbacks, and the handling of the cargoes in American ports, were matters of national regulation, upon which a foreign state had no claim to pronounce. The American envoy was sanguine of a favorable issue; but the British Secretary had to undergo the experience, which long exclusion from office made novel to him, that in the complications of political life a broad personal conviction has often to yield to the narrow logic of particular conditions. It is clear that the measures would not have been instituted, had he been in control; but, as it was, the American representative demanded not only their discontinuance, but a money indemnity. The necessity of reparation for wrong, if admitted, stood in the way of admitting as a wrong a proceeding authorized by the last Government, and pronounced legal by the tribunals. To this obstacle was added the weight of a strong outdoor public feeling, and of opposition in the Cabinet, by no means in accord upon Fox’s general views. Consequently, to Monroe’s demands for a concession of principle, and for pecuniary compensation, Fox at last replied with a proposition, consonant with the usual practical tone of English statesmanship, never more notable than at this period, that a compromise should be effected; modifying causes of complaint, without touching on principles. “Can we not agree to suspend our rights, and leave you in a satisfactory manner the enjoyment of the trade? In that case, nothing would be said about the principle, and there would be no claim to indemnity.”

The United States Government, throughout the controversy which began here and lasted till the war, clung with singular tenacity to the establishment of principles. To

this doubtless contributed much the personality of Madison, then Secretary of State; a man of the pen, clear-headed, logical, incisive, and delighting like all men in the exercise of conscious powers. The discussion of principles, the exposure of an adversary's weakness or inconsistencies, the weighty marshalling of uncounted words, were to him the breath of life; and with happy disregard of the need to back phrases with deeds, there now opened before him a career of argumentation, of logical deduction and exposition, constituting a condition of political and personal enjoyment which only the deskman can fully appreciate. It was not, however, an era in which the pen was mightier than the sword; and in the smooth gliding of the current Niagara was forgotten. Like Jefferson, he was wholly oblivious of the relevancy of Pompey's retort to a contention between two nations, each convinced of its own right: "Will you never have done with citing laws and privileges to men who wear swords?"

To neither President nor Secretary does it seem to have occurred that the provision of force might lend weight to argument; a consideration to which Monroe, intellectually much their inferior, was duly sensible. "Nothing will be obtained without some kind of pressure, such a one as excites an apprehension that it will be increased in case of necessity; and to produce that effect it will be proper to put our country in a better state of defence, by invigorating the militia system and increasing the naval force." "Victorious at sea, Great Britain finds herself compelled to concentrate her force so much in this quarter, that she would not only be unable to annoy us essentially in case of war, but even to protect her commerce and possessions elsewhere, which would be exposed to our attacks." 1 Most true when written, in 1805; the time had passed in 1813. "Harassed as they are already with war, and the menaces

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1 American State Papers, Foreign Relations, vol. iii. p. 111.
of a powerful adversary, a state of hostility with us would probably go far to throw this country into confusion. It is an event which the ministry would find it difficult to resist, and therefore cannot, I presume, be willing to encounter.” ¹ But he added, “There is here an opinion, which many do not hesitate to avow, that the United States are, by the nature of their Government, incapable of any great, vigorous, or persevering exertion.” ¹ This impression, for which it must sorrowfully be confessed there was much seeming ground in contemporary events, and the idiosyn­crasies of Jefferson and Madison, in their full dependence upon commercial coercion to reduce Great Britain to con­cede their most extreme demands, contributed largely to maintain the successive British ministries in that uncon­ciliatory and disingenuous attitude towards the United States, which made inevitable a war that a higher bearing might have averted.

Monroe had been instructed that, if driven to it, he might waive the practical right to sail direct from a bel­ligerent colony to the mother country, being careful to use no expression that would imply yielding of the ab­stract principle. But the general insistence of his Govern­ment upon obtaining from Great Britain acknowledgment of right was so strong that he could not accept Fox’s sugges­tion. The British Minister, forced along the lines of his predecessors by the logic of the situation, then took higher ground. “He proceeded to insist that,” to break the continuity of the voyage, “our vessels which should be engaged in that commerce must enter our ports, their cargoes be landed, and the duties paid.” ² This was the full extent of Pitt’s requirements, as of the rulings of the British Admiralty Court; and made the regulation of trans­actions in an American port depend upon the deci-

² Ibid., p. 118.
sions of British authorities. Monroe unhesitatingly rejected the condition, and their interview ended, leaving the subject where it had been. The British Cabinet then took matters into its own hands, and without further communication with Monroe adopted a practical solution, which removed the particular contention from the field of controversy by abandoning the existing measures, but without any expression as to the question of right or principle, which by this tacit omission was reserved. Unfortunately for the wishes of both parties, this recourse to opportunism, for such it was, however ameliorative of immediate friction, resulted in a further series of quarrels; for the new step of the British Government was considered by the American to controvert international principles as much cherished by it as the right to the colonial trade.

Monroe's interview was on April 25. On May 17 he received a letter from Fox, dated May 16, notifying him that, in consequence of certain new and extraordinary means resorted to by the enemy for distressing British commerce, a retaliatory commercial blockade was ordered of the coast of the continent, from the river Elbe to Brest. This blockade, however, was to be absolute, against all commerce, only between the Seine and Ostend. Outside of those limits, on the coast of France west of the Seine, and those of France, Holland, and Germany east of Ostend, the rights of capture attaching to blockades would be forborne in favor of neutral vessels, bound in, which had not been laden at a port hostile to Great Britain; or which, going out, were not destined to such hostile port.¹ No discrimination was made against the character of the cargo, except as forbidden by generally recognized laws of war. This omission tacitly allowed the colonial trade by way of American ports, just as the measure as a whole

¹ For the text of this measure, see American State Papers, Foreign Relations, vol. iii. p. 267.
tacitly waived all questions of principle upon which that difference had turned. After this, a case coming before a British court would require from it no concession affecting its previous rulings. By these the vessel still would stand condemned; but she was relieved from the application of them by the new Order, in which the Government had relinquished its asserted right. The direct voyage from the colony to the mother country was from a hostile port, and therefore remained prohibited; but the proceedings in the United States ports, as affecting the question of direct voyage, though held by the Court to be properly liable to interpretation by itself on international grounds, if brought before it, was removed from its purview by the act of its own Government, granting immunity.

The first impressions made upon Monroe by this step were favorable, as it evidently relieved the immediate embarrassments under which American commerce was laboring. There would at least be no more seizures upon the plea of direct voyages. While refraining from expressing to Fox any approbation of the Order of May 16, he wrote home in this general sense of congratulation; and upon his letters, communicated to Congress in 1808, was founded a claim by the British Minister at Washington in 1811, that the blockade thus instituted was not at the time regarded by him "as founded on other than just and legitimate principles." "I have not heard that it was considered in a contrary light when notified as such to you by Mr. Secretary Fox, nor until it suited the views of France to endeavor to have it considered otherwise." 1 Monroe, who was then Secretary of State, replied that with Fox "an official formal complaint was not likely to be resorted to, because friendly communications were invited and preferred. The want of such a document is no proof that the measure was approved by me, or no com-

1 American State Papers, Foreign Relations, vol. iii. p. 443.
plaint made." The general tenor of his home letters, however, was that of satisfaction: and it is natural to men dealing with questions of immediate difficulty to hail relief, without too close scrutiny into its ultimate consequences. It may be added that ministers abroad, in close contact with the difficulties and perplexities of the government to which they are accredited, recognize these more fully than do their superiors at home, and are more susceptible to the advantages of practical remedies over the maintenance of abstract principle.

The legitimacy of the blockade of May 16, 1806, was afterwards sharply contested by the United States. There was no difference between the two governments as to the general principle that a blockade, to be lawful, must be supported by the presence of an adequate force, making it dangerous for a vessel trying to enter or leave the port. "Great Britain," wrote Madison, "has already in a formal communication admitted the principle for which we contend." The difficulty turned on a point of definition, as to what situation, and what size, of a blockading division constituted adequacy. The United States authorities based themselves resolutely on the position that the blockaders must be close to the ports named for closure, and denied that a coast-line in its entirety could thus be shut off from commerce, without specifying the particular harbors before which ships would be stationed. Intent, as neutrals naturally are, upon narrowing belligerent rights, usually adverse to their own, they placed the strictest construction on the words "port" and "force." This is perhaps best shown by quoting the definition proposed by American negotiators to the British Government over a year later,—July 24, 1807. "In order to determine what characterizes a blockade, that denomination is given only to a port, where there is, by the disposition of the Power which

1 American State Papers, Foreign Relations, vol. iii. p. 446.
blockades it with ships stationary, an evident danger in entering." Madison, in 1801, discussing vexations to Americans bound into the Mediterranean, by a Spanish alleged blockade of Gibraltar, had anticipated and rejected the British action of 1806. "Like blockades might be proclaimed by any particular nation, enabled by its naval superiority to distribute its ships at the mouth of that or any similar sea, or across channels or arms of the sea, so as to make it dangerous for the commerce of other nations to pass to its destination. These monstrous consequences condemn the principle from which they flow." 

The blockade of May 16 offered a particularly apt illustration of the point at issue. From the entrance of the English Channel to the Straits of Dover, the whole of both shore-lines was belligerent. On one side all was British; on the other all French. Evidently a line of ships disposed from Ushant to the Lizard, the nearest point on the English coast, would constitute a very real danger to a vessel seeking to approach any French port on the Channel. Fifteen vessels would occupy such a line, with intervals of only six miles, and in combination with a much smaller body at the Straits of Dover would assuredly bring all the French coast between them within the limits of any definition of danger. That these particular dispositions were adopted does not appear; but that very much larger numbers were continually moving in the Channel, back and forth in every direction, is certain. As to the remainder of the coast declared under restriction, from the Straits to the Elbe, — about four hundred miles, — with the great entrances to Antwerp, Rotterdam, Amsterdam, the Ems, the Weser, and the Elbe, there can be no doubt that it was within the power of Great Britain to

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2 Ibid., p. 371.
establish the blockade within the requirements of international law. Whether she did so was a question of fact, on which both sides were equally positive. The British to the last asserted that an adequate force had been assigned, "and actually maintained," ¹ while the blockade lasted.

The incident derived its historical significance chiefly from subsequent events. It does not appear at the first to have engaged the special attention of the United States Government, the general position of which, as to blockades, was already sufficiently defined. The particular instance was only one among several, and interest was then diverted to two other leading points,—impressment and the colonial trade. Peculiar importance began to attach to it only in the following November, when Napoleon issued his Berlin decree. Upon this ensued the exaggerated oppressions of neutral commerce by both antagonists; and the question arose as to the responsibility for beginning the series of measures, of which the Berlin and Milan Decrees on one side, and the British Orders in Council of 1807 and 1809 on the other, were the most conspicuous features. Napoleon contended that the whole sprang from the extravagant pretensions of Great Britain, particularly in the Order of May 16, which he, in common with the United States, characterized as illegal. The British Government affirmed that it was strictly within belligerent rights, and was executed by an adequate force; that consequently it gave no ground for the course of the French Emperor. American statesmen, while disclaiming with formal gravity any purpose to decide with which of the two wrong-doers the ill first began,² had no scruples about reiterating constantly that the Order of May 16 contravened international

² Ibid., pp. 428, 439.
right; and in so far, although wholly within the limits of
diplomatic propriety, they supported Napoleon's assertion.
Thus it came to pass that the United States was more and
more felt, not only in Europe, but by dissentients at home,
to side with France; and as the universal contest grew
more embittered, this feeling became emphasized.

While these discussions were in progress between Mon-
roe and Fox, the United States Government had taken a
definite step to bring the dispute to an issue by commer-
cial restriction. The remonstrances from the mercantile
community, against the seizures under the new ruling as
to direct trade, were too numerous, emphatic, and with
reasonable, to be disregarded. Congress therefore, before
its adjournment on April 23, 1806, passed a law shutting
the American market, after the following November 15,
against certain articles of British manufacture, unless
equitable arrangements between the two countries should
previously be reached. This recourse was in line with
the popular action of the period preceding the War of
Independence, and foreshadowed the general policy upon
which the Administration was soon to enter on a larger
scale. The measure was initiated before news was received
of Pitt's death, and the accession of a more friendly min-
istry; but, having been already recommended in committee,
it was not thought expedient to recede in consequence of
the change. At the same time, the Administration deter-
mined to constitute an extraordinary mission, for the pur-
pose of "treating with the British Government concerning
the maritime wrongs which have been committed, and the
regulation of commercial navigation between the parties."
For this object Mr. William Pinkney, of Maryland, was
nominated as colleague to Monroe, and arrived in England
on June 24.

The points to be adjusted by the new commissioners were
numerous, but among them two were made pre-eminent,—

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the question of colonial trade, already explained, and that of impressment of seamen from American vessels. These were named by the Secretary of State as the motive of the recent Act prohibiting certain importations. The envoys were explicitly instructed that no stipulation requiring the repeal of that Act was to be made, unless an effectual remedy for these two evils was provided. The question of impressment, wrote Madison, "derives urgency from the licentiousness with which it is still pursued, and from the growing impatience of this country under it." When Pinkney arrived, the matter of the colonial trade had already been settled indirectly by the Order of May 16, and it was soon to disappear from prominence, merged in the extreme measures of which that blockade was the precursor; but impressment remained an unhealed sore to the end.

To understand the real gravity of this dispute, it is essential to consider candidly the situation of both parties, and also the influence exerted upon either by long-standing tradition. The British Government did not advance a crude claim to impress American seamen. What it did assert, and was enforcing, was a right to exercise over individuals on board foreign merchantmen, upon the high seas, the authority which it possessed on board British ships there, and over all ships in British ports. The United States took the ground that no such jurisdiction existed, unless over persons engaged in the military service of an enemy; and that only when a vessel entered the ports or territorial waters of Great Britain were those on board subject to arrest by her officers. There, as in every state, they came under the law of the land.

The British argument in favor of this alleged right may be stated in the words of Canning, who became Foreign

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1 The Instructions to Monroe and Pinkney are found in American State Papers, Foreign Relations, vol. iii. p. 120.
Secretary a year later. Writing to Monroe, September 28, 1867, he starts from the premise, then regarded by many even in America as sound, that allegiance by birth is inalienable,—not to be renounced at the will of the individual; consequently, "when mariners, subjects of his Majesty, are employed in the private service of foreigners, they enter into engagements inconsistent with the duty of subjects. In such cases, the species of redress which the practice of all times has admitted and sanctioned is that of taking those subjects at sea out of the service of such foreign individuals, and recalling them to the discharge of that paramount duty, which they owe to their sovereign and to their country. That the exercise of this right involves some of the dearest interests of Great Britain, your Government is ready to acknowledge. . . . It is needless to repeat that these rights existed in their fullest force for ages previous to the establishment of the United States of America as an independent government; and it would be difficult to contend that the recognition of that independence can have operated any change in this respect."\footnote{American State Papers, Foreign Relations, vol. iii. pp. 200, 201.}

Had this been merely a piece of clever argumentation, it would have crumbled rapidly under an appreciation of the American case; but it represented actually a conviction inherited by all the British people, and not that of Canning only. Whether the foundation of the alleged right was solidly laid in reason or not, it rested on alleged prescription, indorsed by a popular acceptance and suffrage which no ministry could afford to disregard, at a time when the manning of the Royal Navy was becoming a matter of notorious and increasing difficulty. If Americans saw with indignation that many of their fellow-citizens were by the practice forced from their own ships to serve in British vessels of war, it was equally well
known, in America as in Great Britain, that in the merchant vessels of the United States were many British seamen, sorely needed by their country. Public opinion in the United States was by no means united in support of the position then taken by Jefferson and Madison, as well as by their predecessors in office, proper and matter-of-course as that seems to-day. Many held, and asserted even with vehemence, that the British right existed, and that an indisputable wrong was committed by giving the absentees shelter under the American flag. The claim advanced by the United States Government, and the only one possible to it under the circumstances, was that when outside of territorial limits a ship’s flag and papers must be held to determine the nation, to which alone belonged jurisdiction over every person on board, unless demonstrably in the military service of a belligerent.

As a matter involving extensive practical consequences, this contention, like that concerning the colonial trade, had its origin from the entrance into the family of European nations of a new-comer, foreign to the European community of states and their common traditions; indisposed, consequently, to accept by mere force of custom rules and practices unquestioned by them, but traversing its own interests. As Canning argued, the change of political relation, by which the colonies became independent, could not affect rights of Great Britain which did not derive from the colonial connection; but it did introduce an opposing right,—that of the American citizen to be free from British control when not in British territory. This the United States possessed in common with all foreign nations; but in her case it could not, as in theirs, be easily reconciled with the claim of Great Britain. When every one whose native tongue was English was also by birth the subject of Great Britain, the visitation of a foreign neutral, in order to take from her any British seamen, involved no
great difficulty of discrimination, nor—granting the theory of inalienable allegiance—any injustice to the person taken. It was quite different when a large maritime English-speaking population, quite comparable in numbers to that remaining British, had become independent. The exercise of the British right, if right it was, became liable to grievous wrong, not only to the individuals affected, but to the nation responsible for their protection; and the injury was greater, both in procedure and result, because the officials intrusted with the enforcement of the British claim were personally interested in the decisions they rendered. No one who understands the affection of a naval officer for an able seaman, especially if his ship be short-handed, will need to have explained how difficult it became for him to distinguish between an Englishman and an American, when much wanted. In short, there was on each side a practical grievance; but the character of the remedy to be applied involved a question of principle, the effect of which would be unequal between the disputants, increasing the burden of the one while it diminished that of the other, according as the one or the other solution was adopted.

Except for the fact that the British Government had at its disposal overwhelming physical force, its case would have shared that of all other prescriptive rights when they come into collision with present actualities, demanding their modification. It might be never so true that long-standing precedent made legal the impressment of British seamen from neutral vessels on the open sea; but it remained that in practice many American seamen were seized, and forced into involuntary servitude, the duration of which, under the customs of the British Navy, was terminable certainly only by desertion or death. The very difficulty of distinguishing between the natives of the two countries, "owing to similarity of language, habits, and manners," 1

alleged in 1797 by the British Foreign Secretary, Lord Grenville, to Rufus King, the American Minister, did but emphasize the incompatibility of the British claim with the security of the American citizen. The Consul-General of Great Britain at New York during most of this stormy period, Thomas Barclay, a loyalist during the War of Independence, affirms from time to time, with evident sincerity of conviction, the wishes of the British Government and naval officers not to impress American seamen; but his published correspondence contains none the less several specific instances, in which he assures British admirals and captains that impressed men serving on board their ships are beyond doubt native Americans, and his editor remarks that “only a few of his many appeals on behalf of Americans unlawfully seized are here printed.”

This, too, in the immediate neighborhood of the United States, where evidence was most readily at hand. The condition was intolerable, and in principle it mattered nothing whether one man or many thus suffered. That the thing was possible, even for a single most humble and unknown native of the United States, condemned the system, and called imperiously for remedy. The only effectual remedy, however, was the abandonment of the practice altogether, whether or not the theoretic ground for such abandonment was that advanced by the United States. Long before 1806, experience had demonstrated, what had been abundantly clear to foresight, that a naval lieutenant or captain could not safely be intrusted with a function so delicate as deciding the nationality of a likely English-speaking topman, whom, if British, he had the power to impress.

The United States did not refuse to recognize, distinctly if not fully, the embarrassment under which Great Britain

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1 Correspondence of Thomas Barclay, edited by George L. Rives, New York, 1894. For instances, see Index, Impressment.
labored by losing the services of her seamen at a moment of such national exigency; and it was prepared to offer many concessions in municipal regulations, in order to exclude British subjects from American vessels. Various propositions were advanced looking to the return of deserters and to the prevention of enlistments; coupled always with a renunciation of the British claim to take persons from under the American flag. There had been much negotiation by individual ministers of the United States in the ordinary course of their duties; beginning as far back as 1787, when John Adams had to demonstrate vigorously with the Cabinet "against this practice, which has been too common, of impressing American citizens, and especially with the aggravating circumstances of going on board American vessels, which ought to be protected by the flag of their sovereign." 1 Again, in 1790, on hostilities threatening with Spain, a number of American seamen were impressed in British ports. The arrests, being within British waters, were not an infringement of American jurisdiction, and the only question then raised was that of proving nationality. Gouverneur Morris, who afterwards so violently advocated the British claim to impress their own subjects in American vessels on the seas, 2 was at this time in London on a special semi-official errand, committed to him by President Washington. There being then no American resident minister, he took upon himself to mention to the Foreign Secretary "the conduct of their pressgangs, who had taken many American seamen, and had entered American vessels with as little ceremony as those belonging to Britain;" adding, with a caustic humor characteristic of him, "I believe, my Lord, this is the only instance in which we are not treated as aliens." He suggested certificates of citizenship, to be issued by the Admiralty Courts of the United States. This was approved

2 Ante, p. 6.
by the Secretary and by Pitt; the latter, however, remarking that the plan was "very liable to abuse, notwithstanding every precaution."¹ Various expedients for attaching to the individual documentary evidence of birth were from time to time tried; but the heedless and inconsequent character and habits of the sailor of that day, and the facility with which the papers, once issued, could be transferred or bought, made any such resource futile. The United States was thus driven to the position enunciated in 1792 by Jefferson, then Secretary of State: "The simplest rule will be that the vessel being American shall be evidence that the seamen on board of her are such."² If this demand comprehended, as it apparently did, cases of arrest in British harbors, it was clearly extravagant, resembling the idea proceeding from the same source that the Gulf Stream should mark the neutral line of United States waters; but for the open sea it formulated the doctrine on which the country finally and firmly took its stand.

The history of the practice of impressment, and of the consequent negotiations, from the time of Jefferson's first proposition down to the mission of Monroe and Pinkney, had shown conclusively that no other basis of settlement than that of the flag vouching for the crew could adequately meet and remove the evil of which the United States complained; an evil which was not only an injury to the individuals affected, but a dishonor to the nation which should continue to submit. The subject early engaged the care of Rufus King, who became Minister to Great Britain in 1796. In 1797, Lord Grenville and he had a correspondence,³ which served merely to develop the difficulties on both sides, and things drifted from bad to worse. Not only was

² Jefferson's Works, Letter to T. Pinckney, Minister to Great Britain, June 11, 1792.
THOMAS JEFFERSON.

From the painting by Gilbert Stuart in Bowdoin College, Brunswick, Me.
there the oppression of the individual, but the safety of ships was endangered by the ruthless manner in which they were robbed of their crews; an evil from which British merchant vessels often suffered. On October 7, 1799, King again presented Grenville a paper, summarizing forcibly both the abuses undergone by Americans, and the inconsistency of the British principle of inalienable allegiance with other British practices, which not only conferred citizenship upon aliens serving for a certain time in their merchant ships, but even attributed it compulsorily to seamen settled or married in the land. No satisfactory action followed upon this remonstrance. In March, 1801, Grenville having resigned with Pitt, King brought the question before their successors, referring to the letter of October, 1799, as “a full explanation, requiring no further development on the present occasion.” At the same time, by authority from his Government, he made a definite proposal, “that neither party shall upon the high seas impress seamen out of the vessels of the other.” The instructions for this action were given under the presidency of John Adams, John Marshall being then Secretary of State. On the high seas the vessels of the country were not under British jurisdiction for any purpose. The only concession of international law was that the ship itself could be arrested, if found by a belligerent cruiser under circumstances apparently in violation of belligerent rights, be brought within belligerent jurisdiction, and the facts there determined by due process of law. But in the practice of impressment the whole procedure, from arrest to trial and sentence, was transferred to the open sea; therefore to allow it extended thither a British jurisdiction, which possessed none of the guarantees for the sifting of

2 Life and Correspondence of Rufus King, vol. iii. p. 115.
4 Ibid., p. 493.
evidence, the application of law, or the impartiality of the judge, which may be presumed in regular tribunals.

Yet, while holding clearly the absolute justice of the American contention, demonstrated both by the faulty character of the method and the outrageous injustice in results, let us not be blind to the actuality of the loss Great Britain was undergoing, nor to her estimate of the compensation offered for the relinquishment of the practice. The New England States, which furnished a large proportion of the maritime population, affirmed continually by their constituted authorities that very few of their seamen were known to be impressed. Governor Strong of Massachusetts, in a message to the Legislature, said, “The number of our native seamen impressed by British ships has been grossly exaggerated, and the number of British seamen employed by us has at all times been far greater than those of all nations who have been impressed from our vessels. If we are contending for the support of a claim to exempt British seamen from their allegiance to their own country, is it not time to inquire whether our claim is just?” 1 It seems singular now that the fewness of the citizens hopelessly consigned to indefinite involuntary servitude should have materially affected opinion as to the degree of the outrage; but, after making allowance for the spirit of faction then prevalent, it can be readily understood that such conditions, being believed by the British, must color their judgment as to the real extent of the injustice by which they profited. At New York, in 1805, Consul-General Barclay, 2 who had then been resident for six years, in replying to a letter from the Mayor, said, “It is a fact, too notorious to have escaped your knowledge, that many of his Majesty’s subjects are furnished with American protection, to which they have no title.” This being brought to Madison’s

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1 Nile’s Register, vol. v. p. 345.  
attention produced a complaint to the British Minister. In justifying his statements, Barclay wrote there were "innumerable instances where British subjects within a month after their arrival in these states obtain certificates of citizenship." "The documents I have already furnished you prove the indiscriminate use of those certificates." Representative Gaston of North Carolina, whose utterances on another aspect of the question have been before quoted, said in this relation, "In the battle, I think of the President and the Little Belt, a neighbor of mine, now an industrious farmer, noticed in the number of the slain one of his own name. He exclaimed, 'There goes one of my protections.' On being asked for an explanation, he remarked that in his wild days, when he followed the sea, it was an ordinary mode of procuring a little spending money to get a protection from a notary for a dollar, and sell it to the first foreigner whom it at all fitted for fifteen or twenty." But, while believing that the number of impressed Americans "had been exaggerated infinitely beyond the truth," Gaston added, with the clear perceptions of patriotism, "Be they more or less, the right to the protection of their country is sacred and must be regarded." 

The logic was unimpeachable which, to every argument based upon numbers, replied that the question was not of few or many, but of a system, under which American seamen — one or more — were continually liable to be seized by an irresponsible authority, without protection or hearing of law, and sent to the uttermost part of the earth, beyond power of legal redress, or of even making known their situation. Yet it can be understood that the British Government, painfully conscious of the deterioration of its fighting force by the absence of its subjects, and convinced of its right, concerning which no hesitation was ever by it

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1 Correspondence, p. 219.  
2 Ante, p. 7.  
expressed, should have resolved to maintain it, distrustful of offers to exclude British seamen from the American merchant service, the efficacy of which must have been more than doubtful to all familiar with shipping procedures in maritime ports. The protections issued to seamen as American citizens fell under the suspicion which in later days not infrequently attached to naturalization papers; and, if questioned by some of our own people, it is not to be wondered that they seemed more than doubtful to a contrary interest.

In presenting the proposition, "that neither party should impress from the ships of the other," King had characterized it as a temporary measure, "until more comprehensive and precise regulations can be devised to secure the respective rights of the two countries." Nevertheless, the United States would doubtless have been content to rest in this, duly carried out, and even to waive concession of the principle, should it be thus voided in practice. As King from the first foresaw, acceptance by the British Cabinet would depend upon the new head of the Admiralty, Lord St. Vincent, a veteran admiral, whose reputation, and experience of over fifty years, would outweigh the opinions of his colleagues. In reply to a private letter from one of St. Vincent's political friends, sent at King's request, the admiral wrote: "Mr. King is probably not aware of the abuses which are committed by American Consuls in France, Spain, and Portugal, from the generality of whom every Englishman, knowing him to be such, may be made an American for a dollar. I have known more than one American master carry off soldiers, in their regimentals, arms, and accoutrements, from the garrison at Gibraltar; and there cannot be a doubt but the American trade is navigated by a majority of British subjects; and a very considerable one too." However inspired by prejudice,

1 King to Thomas Erskine. Life of King, vol. iii. p. 401.
these words in their way echo Gaston’s statements just quoted; while Madison in 1806 admitted that the number of British seamen in American merchant ships was “considerable, though probably less than supposed.”

Entertaining these impressions, the concurrence of St. Vincent seemed doubtful; and in fact, through the period of nominal peace which soon ensued, and continued to May, 1803, the matter dragged. When the renewal of the war was seen to be inevitable, King again urged a settlement, and the Foreign Secretary promised to sign any agreement which the admiral would approve. After conference, King thought he had gained this desired consent, for a term of five years, to the American proposition. He drew up articles embodying it, together with the necessary equivalents to be stipulated by the United States; but, before these could be submitted, he received a letter from St. Vincent, saying that he was of the opinion that the narrow seas should be expressly excepted from the operation of the clause, “as they had been immemorially considered to be within the dominions of Great Britain.” Since this would give the consent of the United States to the extension of British jurisdiction far beyond the customary three miles from the shore, conceded by international law, King properly would not accept the solution, tempting as was the opportunity to secure immunity for Americans in other quarters from the renewed outrages that could be foreseen. He soon after returned to the United States, where his decision was of course approved; for though the Gulf Stream appeared to Jefferson the natural limit for the neutral jurisdiction of America, the claim of Great Britain to the narrow seas was evidently a grave encroachment upon the rights of others.

In later years Lord Castlereagh, in an interview with the American chargé d’affaires, Jonathan Russell, assured him that Mr. King had misapprehended St. Vincent’s meaning;
reading, from a mass of records then before him, a letter of the admiral to Sir William Scott, Judge of the High Court of Admiralty, "asking for counsel and advice, and confessing his own perplexity and total incompetency to discover any practical project for the safe discontinuance of the practice." "You see," proceeded Lord Castlereagh, "that the confidence of Mr. King on this point was entirely unfounded."¹

Wherever the misunderstanding lay, matters had not advanced in the least towards a solution when Monroe reached England, in 1803, as King's successor. Up to that time, no tabular statement seems to have been prepared, showing the total number of seamen impressed from American vessels during the first war, 1798–1801; nor does the present writer think it material to ascertain, from the fragmentary data at hand, the exact extent of an injury to which the question of more or less was secondary. The official agent of the American Government, for the protection of seamen, upon quitting his post in London in 1802, wrote that he had transferred to his successor "A list of 597 seamen, where answers have been returned to me, stating that, having no documents to prove their citizenship, the Lords Commissioners of the Admiralty could not consent to their discharge." Only seven cases then remained without replies, which shows at the least a decent attention to the formalities of intercourse; and King, in his letter of October 7, 1799, had acknowledged that the Secretary to the Admiralty had "given great attention to the numerous applications, and that a disposition has existed to comply with our demands, when the same could be done consistently with the maxims and practice adopted and adhered to by Great Britain." The Admiralty, however, maintained that "the admission of the principle, that

a man declaring himself to belong to a foreign state should, upon that assertion merely, and without direct or very strong circumstantial proof, be suffered to leave the service, would be productive of the most dangerous consequences to his Majesty’s Navy.” The agent himself had written to the Secretary of the Admiralty, “I freely confess that I believe many of them are British subjects; but I presume that all of them were impressed from American vessels, and by far the greater proportion are American citizens, who, from various causes, have been deprived of their certificates, and who, from their peculiar situation, have been unable to obtain proofs from America.”

When Mr. Monroe arrived in England in 1803, after the conclusion of the Louisiana purchase from France, war had just re-begun. Instructions were sent him, in an elaborate series of articles framed by Madison, for negotiating a convention to regulate those matters of difference which experience had shown were sure to arise between the two countries in the progress of the hostilities. Among them, impressment was given the first place; but up to 1806, when Pinckney was sent as his associate, nothing had been effected, nor does urgency seem to have been felt. So long as in practice things run smoothly, divergences of opinion were easily tolerable. Soon after the receipt of the instructions, in March, 1804, the comparatively friendly administration of Addington gave way to that of Pitt; and upon this had followed Monroe’s nine-months absence in Spain. Before departure, however, he had written, “The negotiation has not failed in its great objects, . . . nor was there ever less cause of complaint furnished by impressment.”

The outburst of seizure upon the plea of a constructively direct

2 Ibid., vol. iii. p. 90.
3 Ibid., p. 38.
trade, already mentioned, had followed, and, with the retaliatory non-importation law of the United States, made the situation acute and menacing. Further cause for exasperation was indicated in a report from the Secretary of State, March 5, 1806, giving, in reply to a resolution of the House, a tabulated statement, by name, of 918 persons, who "appear to have been impressed from American vessels;" to which was added that "the aggregate number of impressments into the British service since the commencement of the present war in Europe (May, 1803) is found to be 2,270."  

Confronted by this situation of wrongs endured, by commerce and by seamen, the mission of Monroe and Pinkney was to negotiate a comprehensive treaty of "amity, commerce, and navigation," the first attempted between the two countries since Jay's in 1794. When Pinkney landed, Fox was already in the grip of the sickness from which he died in the following September. This circumstance introduced an element of delay, aggravated by the inevitable hesitations of the new ministry, solicitous on the one hand to accommodate, but yet more anxious not to incense British opinion. The Prime Minister, in room of Mr. Fox, received the envoys on August 5, and, when the American demand was explained to him, defined at once the delicacy of the question of impressment. "On the subject of the impressment of our seamen, he suggested doubts of the practicability of devising the means of discrimination between the seamen of the two countries, within (as we understood him) their respective jurisdictions; and he spoke of the importance to the safety of Great Britain, in the present state of the power of her enemy, of preserving in their utmost strength the right and capacity of Government to avail itself in war of the services of its seamen. These observations were connected

with frequent professions of an earnest wish that some liberal and equitable plan should be adopted, for reconciling the exercise of this essential right with the just claims of the United States, and for removing from it all cause of complaint and irritation.”

In consequence of Mr. Fox’s continued illness two negotiators, one of whom, Lord Holland, was a near relative of his, were appointed to confer with the American envoys, and to frame an agreement, if attainable. The first formal meeting was on August 27, the second on September 1. As the satisfactory arrangement of the impressment difficulty was a sine qua non to the ratification of any treaty, and to the repeal of the Non-Importation Act, this American requirement was necessarily at once submitted. The reply was significant, particularly because made by men apparently chosen for their general attitude towards the United States, by a ministry certainly desirous to conciliate, and to retain the full British advantage from the United States market, if compatible with the preservation of an interest deemed greater still. “It was soon apparent that they felt the strongest repugnance to a formal renunciation, or the abandonment, of their claim to take from our vessels on the high seas such seamen as should appear to be their own subjects, and they pressed upon us with much zeal a provision” for documentary protection to individuals; “but that, subject to such protections, the ships of war of Great Britain should continue to visit and impress on the main ocean as heretofore.”

In the preliminary discussions the British negotiators presented the aspect of the case as it appeared to them and to their public. They “observed that they supposed the object of our plan to be to prevent the impressment at

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1 American State Papers, Foreign Relations, vol. iii. p. 131. Author's italics.
2 For the American report of these interviews, see Ibid., pp. 133–135.
sea of American seamen, and not to withdraw British seamen from the naval service of their country in times of great national peril, for the purpose of employing them ourselves; that the first of these purposes would be effectually accomplished by a system which should introduce and establish a clear and conclusive distinction between the seamen of the two countries, which on all occasions would be implicitly respected; that if they should consent to make our commercial navy a floating asylum for all the British seamen who, tempted by higher wages, should quit their service for ours, the effect of such a concession upon their maritime strength, on which Great Britain depended, not only for her prosperity but for her safety, might be fatal; that on the most alarming emergency they might be deprived, to an extent impossible to calculate, of their only means of security; that our vessels might become receptacles for deserters to any amount, and when once at sea might set at defiance the just claims of the service to which such deserters belonged; that, even within the United States, it could not be expected that any plan for recovering British deserters could be efficacious; and that, moreover, the plan we proposed was inadequate in its range and object, inasmuch as it was merely prospective, confined wholly to deserters, and in no respect provided for the case of the vast body of British seamen now employed in our trade to every part of the world."

To these representations, which had a strong basis in fact and reason, if once the British principle was conceded, the American negotiators replied in detail as best they could. In such detail, the weight of argument and of probability appears to the writer to rest with the British case; but there is no adequate reply to the final American assertion, which sums up the whole controversy, "that impressment upon the high seas by those to whom that service is necessarily confided must under any conceivable guards
be frequently abused;" such abuse being the imprisonment without trial of American citizens, as "a pressed man," for an indefinite period. Lord Cochrane, a British naval officer of rare distinction, stated in the House of Commons a few years later that "the duration of the term of service in his Majesty's Navy is absolutely without limitation."\(^1\)

The American envoys were prevented by their instructions from conceding this point, and from signing a treaty without some satisfactory arrangement. Meantime, impressed by the conciliatoriness of the British representatives, and doubtless in measure by the evident seriousness of the difficulty experienced by the British Government, they wrote home advising that the date for the Non-Importation Act going into operation, now close at hand, should be postponed; and, in accordance with a recommendation from the President, the measure was suspended by Congress, with a provision for further prolongation in the discretion of the Executive. On September 18 Fox died, an event which introduced further delays, esteemed not unreasonable by Monroe and Pinkney. Their next letter home, however, November 11,\(^2\) while reporting the resumption of the negotiation, announced also its failure by a deadlock on this principal subject of impressment: "We have said everything that we could in support of our claim, that the flag should protect the crew, which we have contended was founded in unquestionable right. . . . This right was denied by the British commissioners, who asserted that of their Government to seize its subjects on board neutral vessels on the high seas, and also urged that the relinquishment of it at this time would go far to the overthrow of their naval power, on which the safety of the state essentially depended." In support of the abstract right was quoted the report from a law officer of the

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Crown, which "justified the pretension by stating that the King had a right, by his prerogative, to require the services of all his seafaring subjects against the enemy, and to seize them by force wherever found, not being within the territorial limits of another Power; that as the high seas were extra-territorial, the merchant vessels of other Powers navigating on them were not admitted to possess such a jurisdiction as to protect British subjects from the exercise of the King's prerogative over them."

This was a final and absolute rejection of Madison's doctrine, that merchant vessels on the high seas were under the jurisdiction only of their own country. Asserted right was arrayed directly and unequivocally against asserted right. Negotiation on that subject was closed, and to diplomacy was left no further resort, save arms, or submission to continued injury and insult. The British commissioners did indeed submit a project,\textsuperscript{1} in place of that of the United States, rejected by their Government. By this it was provided that thereafter the captain of a cruiser who should impress an American citizen should be liable to heavy penalties, to be enacted by law; but as the preamble to this proposition read, "Whereas it is not lawful for a belligerent to impress or carry off, from on board a neutral, seafaring persons who are not the subjects of the belligerent," there was admitted implicitly the right to impress those who were such subjects, the precise point at issue. The Americans therefore pronounced it wholly inadmissible, and repeated that no project could be adopted "which did not allow our ships to protect their crews."

The provision made indispensable by the United States having thus failed of adoption, the question arose whether the negotiation should cease. The British expressed an earnest desire that it should not, and as a means thereto communicated the most positive assurances from their

\textsuperscript{1} American State Papers, Foreign Relations, vol. iii. p. 140.
Government that "instructions have been given, and will be repeated and enforced, for the observance of the greatest caution in the impressing of British seamen; that the strictest care shall be taken to preserve the citizens of the United States from molestation or injury; and that prompt redress shall be afforded upon any representation of injury." \(^1\) To this assurance the American commissioners attached more value as a safeguard for the future than past experience warranted; but in London they were able to feel, more accurately than an official in Washington, the extent and complexity of the British problem, both in actual fact and in public feeling. They knew, too, the anxious wish of the President for an accommodation on other matters; so they decided to proceed with their discussions, having first explicitly stated that they were acting on their own judgment. \(^2\) Consequently, whatever instrument might result from their joint labors would be liable to rejection at home, because of the failure of the impressment demand.

The discussions thus renewed terminated in a treaty of amity, commerce, and navigation, signed by the four negotiators, December 31, 1806. Into the details of this instrument it is unnecessary to go, as it never became operative. Jefferson persisted in refusing approval to any formal convention which did not provide the required stipulation against impressment. He was dissatisfied also with particular details connected with the other arrangements. All these matters were set forth at great length in a letter \(^3\) of May 20, 1807, from Mr. Madison to the American commissioners; in which they were instructed to reopen negotiations on the basis of the treaty submitted, endeavoring to effect the changes specified. The danger to Great Britain from American commercial restriction was

\(^1\) American State Papers, Foreign Relations, vol. iii. p. 149.
\(^2\) Ibid., p. 139.
\(^3\) Ibid., pp. 166-173.
fully expounded, as an argument to compel compliance with the demands; the whole concluding with the characteristic remark that, "as long as negotiation can be honorably protracted, it is a resource to be preferred, under existing circumstances, to the peremptory alternative of improper concessions or inevitable collisions." In other words, the United States Government did not mean to fight, and that was all Great Britain needed to know. That she would suffer from the closure of the American market was indisputable; but, being assured of transatlantic peace, there were other circumstances of high import, political as well as commercial, which rendered yielding more inexpedient to her than a commercial war.

At the end of March, 1807, within three months of the signature at London, the British Ministry fell, and the disciples of Pitt returned to power. Mr. Canning became Foreign Secretary. Circumstances were then changing rapidly on the continent of Europe, and by the time Madison's letter reached England a very serious event had modified also the relations of the United States to Great Britain. This was the attack upon the United States frigate "Chesapeake" by a British ship of war, upon the high seas, and the removal of four of her crew, claimed as deserters from the British Navy. Unofficial information of this transaction reached England July 25, just one day after Monroe and Pinkney had addressed to Canning a letter communicating their instructions to reopen negotiations, and stating the changes deemed desirable in the treaty submitted. The intervention of the "Chesapeake" affair, to a contingent adjustment of which all other matters had been postponed, delayed to October 22 the reply of the British Minister. In this, after a preamble of "distinct protest against a practice, altogether unusual in the political transactions of states, by which the American

Government assumes to itself the privilege of revising and altering agreements concluded and signed on its behalf by its agents duly authorized for that purpose," Canning thus announced the decision of the Cabinet: "The proposal of the President of the United States for proceeding to negotiate anew, upon the basis of a treaty already solemnly concluded and signed, is a proposal wholly inadmissible. And his Majesty has therefore no option, under the present circumstances of this transaction, but to acquiesce in the refusal of the President of the United States to ratify the treaty signed on December 31, 1806." The settlement of the "Chesapeake" business having already been transferred to Washington, by the appointment of a special British envoy, this rejection of further consideration of the treaty closed all matters pending between the two governments, except those appertaining to the usual duties of a legation, and Monroe's mission ended. A fortnight later he sailed for the United States. His place as regularly accredited Minister to the British Court was taken by Pinkney, through whom were conducted the subsequent important discussions, which arose from the marked extension given immediately afterwards by France and Great Britain to their several policies for the forcible restriction of neutral trade.

Those who have followed the course of the successive events traced in this chapter, and marked their accelerating momentum, will be prepared for the more extreme and startling occurrences which soon after ensued as a matter of inevitable development. They will be able also to understand how naturally the phrase, "Free Trade and Sailors' Rights," grew out of these various transactions, as the expression of the demands and grievances which finally drove the United States into hostilities; and will comprehend in what sense these terms were used, and what the wrongs against which they severally protested. "Free
Trade" had no relation of opposition to a system of protection to home industries, an idea hardly as yet formulated to consciousness, except by a few advanced economists. It meant the trade of a nation carried on according to its own free will, relieved from fetters forcibly imposed by a foreign yoke, in which, under the circumstances of the time, the resurrection of colonial bondage was fairly to be discerned. "Sailors' Rights" expressed not only the right of the American seaman to personal liberty of action,—in theory not contested, but in practice continually violated by the British,—but the right of all seamen under the American flag to its protection in the voluntary engagements which they were then fulfilling. It voiced the sufferings of the individual; the personal side of an injury, the reverse of which was the disgrace of the nation responsible for his security.

It was afterwards charged against the administrations of Jefferson and Madison, under which these events ran their course to their culmination in war, that impressment was not a cause of the break between the two countries, but was adduced subsequently to swell the array of injuries, in which the later Orders in Council were the real determinative factor. The drift of this argument was, that the Repeal of the Orders, made almost simultaneously with the American Declaration of War, and known in the United States two months later, should have terminated hostilities. The British Government, in an elaborate vindication of its general course, published in January, 1813, stated that, "in a manifesto, accompanying their declaration of hostilities, in addition to the former complaints against the Orders in Council, a long list of grievances was brought forward; but none of them such as were ever before alleged by the American Government to be grounds for war." In America itself similar allegations were made by the party in opposition. The Maryland House of Delegates, in January,
1814, adopted a memorial, in which it was said that "The
claim of impressment, which has been so much exaggerated,
but which was never deemed of itself a substantive cause
of war, has been heretofore considered susceptible of satis-
factory arrangement in the judgment of both the commis-
sioners, who were selected by the President then in office
to conduct the negotiation with the English ministry in
the year 1806." 1 The words of the commissioners in
their official letters of November 11, 1806, 2 and April
22, 1807, 3 certainly sustain this statement as to their
opinion, which was again deliberately affirmed by Monroe
in a justificatory review of their course, addressed to Madison
in February, 1808, 4 after his return. Gaston, speaking in
the House in February, 1814, said: "Sir, the question
of seamen was not a cause of this war. More than five
years had passed over since an arrangement on this ques-
tion, perfectly satisfactory to our ministers, [Monroe and
P'kney] had been made with Great Britain; but it
pleased not the President, and was rejected. Yet, during
the whole period that afterwards elapsed until the declara-
tion of war, no second effort was made to adjust this cause
of controversy."

Gaston here is slightly in error as to fact, for the attack
upon the "Chesapeake" was made by the Government the
occasion for again demanding an abandonment of the
practice of impressment from American merchant ships;
but, accepting the statements otherwise, nothing more
could be required of the Administration, so far as words
went, than its insistence upon this relinquishment as a
\textit{sine qua non} to any treaty. Its instructions to its minis-
ters in 1806 had placed this demand first, not only in order,

1 Niles' Register, vol. v. p. 377.
3 Ibid., p. 161.
4 Ibid., p. 173.
but in importance, coupling with it as indispensable only one other condition, the freedom of trade; the later and more extreme infringements of which were constituted by the Orders in Council of 1807. After protracted discussion, the American requirement as to impressment had been refused by Great Britain, deliberately, distinctly, and in the most positive manner; nor does it seem possible to concur with the opinion of our envoys that the stipulations offered by her representatives, while not sacrificing the British principle, did substantially and in practice secure the American demands. These could be satisfactorily covered only by the terms laid down by the Administration. Thereafter, any renewal of the subject must come from the other side; it was inconsistent with self-respect for the United States again to ask it, unless with arms in her hands. To make further advances in words would have been, not to negotiate, but to entreat. This, in substance, was the reply of the Government to its accusers at home, and it is irrefutable.

It is less easy — rather, it is impossible — to justify the Administration for refraining from adequate deeds, when the impotence of words had been fully and finally proved. In part, this was due to miscalculation, in itself difficult to pardon, from the somewhat sordid grounds and estimates of national feeling upon which it proceeded. The two successive presidents, and the party behind them, were satisfied that Great Britain, though standing avowedly and evidently upon grounds considered by her essential to national honor and national safety, could be compelled to yield by the menace of commercial embarrassment. That there was lacking in them the elevated instinct, which could recognize that they were in collision with something greater than a question of pecuniary profits, is in itself a condemnation; and their statesmanship was at fault in not appreciating that the enslaved condi-
tions of the European continent had justly aroused in Great Britain an exaltation of spirit, which was prepared to undergo every extreme, in resistance to a like subjection, till exhaustion itself should cause her weapons to drop from her hands.

The resentment of the United States Government for the injuries done its people was righteous and proper. It was open to it to bear them under adequate protest, sympathizing with the evident embarrassments of the old cradle of the race; or, on the other hand, to do as she was doing, strain every nerve to compel the cessation of outrage. The Administration preferred to persist in its military and naval economies, putting forth but one-half of its power, by measures of mere commercial restriction. These impoverished its own people, and divided national sentiment, but proved incapable within reasonable time to reduce the resolution of the opponent. That that finally gave way when war was clearly imminent proves, not that commercial restriction alone was sufficient, but that coupled with military readiness it would have attained its end more surely, and sooner; consequently with less of national suffering, and no national ignominy.

Entire conviction of the justice and urgency of the American contentions, especially in the matter of impressment, and only to a less degree in that of the regulation of trade by foreign force, as impeaching national independence, is not enough to induce admiration for the course of American statesmanship at this time. The acuteness and technical accuracy of Madison's voluminous arguments make but more impressive the narrowness of outlook, which saw only the American point of view, and recognized only the force of legal precedent, at a time when the foundations of the civilized world were heaving. American interests doubtless were his sole concern; but what was practicable and necessary to support those interests
depended upon a wide consideration and just appreciation of external conditions. That laws are silent amid the clash of arms, seems in his apprehension transformed to the conviction that at no time are they more noisy and compulsive. Upon this political obtuseness there fell a kind of poetical retribution, which gradually worked the Administration round to the position of substantially supporting Napoleon, when putting forth all his power to oppress the liberties of Spain, and of embarrassing Great Britain at the time when a people in insurrection against perfidy and outrage found in her their sole support. During these eventful five years, the history of which we are yet to trace, the bearing of successive British ministries towards the United States was usually uncompromising, often arrogant, sometimes insolent, hard even now to read with composure; but in the imminent danger of their country, during a period of complicated emergencies, they held, with cool heads, and with steady hands on the helm, a course taken in full understanding of world conditions, and with a substantially just forecast of the future. Among their presuppositions, in the period next to be treated, was that America might argue and threaten, but would not fight. There was here no miscalculation, for she did not fight till too late, and she fought wholly unprepared.
CHAPTER IV

FROM THE ORDERS IN COUNCIL TO WAR
1807–1812

WHEN the treaty of December 31, 1806, was about to be signed, the British negotiators delivered to the Americans a paper, of the general character of which they had been forewarned, but which in precise terms then first came before them. Its origin was due to a pronouncement of the French Emperor, historically known as the Decree of Berlin, which was dated November 21, while the negotiations were in progress, but had become fully known only when they had reached a very advanced stage. The pretensions and policy set forth in the Decree were considered by the British Government to violate the rights of neutrals, with a specific and far-reaching purpose of thereby injuring Great Britain. It was claimed that acquiescence in such violations by the neutral, or submission to them, would be a concurrence in the hostile object of the enemy; in which case Great Britain might feel compelled to adopt measures retaliatory against France, through the same medium of neutral navigation. In such steps she might be fettered, should the present treaty take effect. In final ratification, therefore, the British Government would be guided by the action of the United States upon the Berlin Decree. Unless the Emperor abandoned his policy, or “the United States by its conduct or assurances will have given security to his Majesty that it will not submit to such innovations on the established system of maritime law, . . . his Majesty will not consider him-
self bound by the present signature of his commissioners to ratify the treaty, or precluded from adopting such measures as may seem necessary for counteracting the designs of his enemy.”¹ The American representatives transmitted this paper to Washington, with the simple observation that “we do not consider ourselves a party to it, or as having given it in any the slightest degree our sanction.”²

The Berlin Decree was remarkable not only in scope and spirit, but in form. “It had excited in us apprehensions,” wrote Madison to the United States minister in Paris, “which were repressed only by the inarticulate import of its articles, and the presumption that it would be executed in a sense not inconsistent with the respect due to the treaty between France and the United States.” It bore, in fact, the impress of its author’s mind, which, however replete with knowledge concerning conventional international law, defined in accordance with the momentary and often hasty impulses of his own will, and consequently often also with the obscurity attendant upon ill-digested ideas. The preamble recited various practices of Great Britain as subversive of international right; most of which were not so, but in accordance with long-standing usage and general prescription. The methods of blockade instituted by her were more exceptionable, and were given prominence, with evident reference to the Order of May 16, declaring the blockade of a long coastline. It being evident, so ran the Emperor’s reasoning, that the object of this abuse of blockade was to interrupt neutral commerce in favor of British, it followed that “whoever deals on the Continent in English merchandise favors that design, and becomes an accomplice.” He therefore decreed, as a measure of just retaliation.

² Ibid., p. 147.
"that the British Islands were thenceforward in a state of blockade; that all correspondence and commerce with them was prohibited; that trade in English merchandise was forbidden; and that all merchandise belonging to England, or (even if neutral property) proceeding from its manufactories and colonies, is lawful prize." No vessel coming directly from British dominions should be received in any port to which the Decree was applicable. The scope of its intended application was shown in the concluding command, that it should be communicated "to the Kings of Spain, of Naples, of Holland, of Etruria, and to our allies, whose subjects, like ours, are the victims of the injustice and barbarism of the English maritime laws." 1

The phrasing of the edict was ambiguous, as Madison indicated. Notably, while neutral vessels having on board merchandise neutral in property, but British in origin, were to be seized when voluntarily entering a French port, it was not clear whether they were for the same reason to be arrested when found on the high seas; and there was equal failure to specify whether the proclaimed blockade authorized the capture of neutrals merely because bound to the British Isles, as was lawful if destined to a seaport effectively blockaded. Again, some of the proposed measures, such as refusal of admission to vessels or merchandise coming to French ports from British, were matters of purely local concern and municipal regulation; whereas the seizure of neutral property, because of English manufacture, was at least of doubtful right, if exercised within municipal limits, and certainly unlawful, if effected on the high seas. Whether such application was intended could not certainly be inferred from the text. The genius of the measure, as a whole, its inspiring motive and purpose, was revealed in the closing words of the preamble:

1 American State Papers, Foreign Relations, vol. iii. p. 299.
“This decree shall be considered as the fundamental law of the Empire, until England has acknowledged that the rights of war are the same on land and on sea; that it [war] cannot be extended to any private property whatever; nor to persons who are not military; and until the right of blockade be restrained to fortified places, actually invested by competent forces.” These words struck directly at measures of war resting upon long-standing usage, in which the strength of a maritime state such as Great Britain was vitally implicated.

The claim for private property possesses particular interest; for it involves a play upon words to the confusion of ideas, which from that time to this has vitiated the arguments upon which have been based a prominent feature of American policy. Private property at a standstill is one thing. It is the unproductive money in a stocking, hid in a closet. Property belonging to private individuals, but embarked in that process of transportation and exchange which we call commerce, is like money in circulation. It is the life-blood of national prosperity, upon which war depends; and as such is national in its employment, and only in ownership private. To stop such circulation is to sap national prosperity; and to sap prosperity, upon which war depends for its energy, is a measure as truly military as is killing the men whose arms maintain war in the field. Prohibition of commerce is enforced at will where an enemy’s army holds a territory; if permitted, it is because it inures to the benefit of the conqueror, or at least from its restricted scope does not injure him. It will not be doubted that, should a prohibition on shore be disregarded, the offending property would be seized in punishment. The sea is the great scene of commerce. The property transported back and forth, circulating from state to state in exchanges, is one of the greatest factors in national wealth. The maritime nations have been, and
are, the wealthy nations. To prohibit such commerce to an enemy is, and historically has been, a tremendous blow to his fighting power; never more conspicuously so than in the Napoleonic wars. But prohibition is a vain show, in war as it is in civil government, if not enforced by penalties; and the natural penalty against offending property is fine, extending even to confiscation in extreme cases. The seizure of enemy’s merchant ships and goods, for violating the prohibition against their engaging in commerce, is what is commonly called the seizure of private property. Under the methods of the last two centuries, it has been in administration a process as regular, legally, as is libelling a ship for an action in damages; nor does it differ from it in principle. The point at issue really is not, “Is the property private?” but, “Is the method conducive to the purposes of war?” Property strictly private, on board ship, but not in process of commercial exchange, is for this reason never touched; and to do so is considered as disgraceful as a common theft.

Napoleon, as a ruler, was always poverty-stricken. For that reason he levied heavy contributions on conquered states, which it is needless to say were paid by private taxpayers; and for the same reason, by calling French ships and French goods “private property,” he would compel for them the freedom of the sea, which the maritime preponderance of Great Britain denied them. He needed the revenue that commerce would bring in. So as to blockades. In denying the right to capture under a nominal blockade, unsupported by an effective force, he took the ground which the common-sense of nations had long before embodied in the common consent called international law. But he went farther. Blockade is very inconvenient to the blockaded, which was the rôle played by France. Along with the claim for “private property,” he formulated the proposition that the right of
blockade is restrained to fortified places; to which was afterwards added the corollary that the place must be invested by land as well as by sea. It is to be noticed that here also American policy showed a disposition to go astray, by denying the legitimacy of a purely commercial blockade; a tendency natural enough at that passing moment, when, as a weak nation, it was desired to restrict the rights of belligerents, but which in its results on the subsequent history of the country would have been ruinous. John Marshall, one of the greatest names in American jurisprudence, when Secretary of State in 1800, wrote to the minister in London:

On principle it might well be questioned whether this rule [of blockade] can be applied to a place not completely invested, by land as well as by sea. If we examine the reasoning on which is founded the right to intercept and confiscate supplies designed for a blockaded town, it will be difficult to resist the conviction that its extension to towns invested by sea only is an unjustifiable encroachment on the rights of neutrals. But it is not of this departure from principle (a departure which has received some sanction from practice) that we mean to complain.  

In 1810, the then Secretary of State enclosed to the American minister in London the letter from which this extract is taken, among other proofs of the positions maintained by the United States on the subject of blockade. The particular claim cited was not directly indorsed; but as its mention was unnecessary to the matter immediately in hand, we may safely regard its retention as indicative of the ideal of the Secretary, and of the President, Mr. Madison. In consequence, we find the minister, William Pinkney, in his letter of January 14, 1811, adducing Marshall’s view to the British Foreign Secretary:

It is by no means clear that it may not fairly be contended, on principle and early usage, that a maritime blockade is incomplete, with regard to States at peace, 1 unless the place which it would affect is invested by land, as well as by sea. The United States, however, have called for the recognition of no such rule. They appear to have contented themselves, etc. 2

The error into which both these eminent statesmen fell is military in character, and proceeds from the same source as the agitation in favor of exempting so-called private property from capture. Both spring from the failure to recognize a function of the sea, vital to the maintenance of war by states which depend upon maritime commerce. To forbid the free use of the seas to enemy's merchant ships and material of commerce, differs in no wise in principle from shutting his ports to neutral vessels, as well as to his own, by blockade. Both are aimed at the enemy's sources of supply, at his communications; and the penalty inflicted by the laws of war in both cases is the same,—forfeiture of the offending property. With clear recognition of this military principle involved, and of the importance of sustaining it by Great Britain, British high officials repeatedly declared that the Berlin Decree was to be regarded, not chiefly in its methods, but in its object, or principle, which was to deprive Great Britain of her principal weapon. This purpose stood avowed in the words, "this decree shall be considered the fundamental law of the Empire until England has acknowledged," etc. British statesmen correctly paraphrased this, "has renounced the established foundations, admitted by all civilized nations, of her maritime rights and interests, upon which depend the most valuable rights and interests of the nation." 3

1 That is, as restrictive of neutral shipping.
3 Wellesley, Minister of Foreign Affairs, to Pinkney, Dec. 29, 1810; also, Feb. 11, 1811. American State Papers, Foreign Relations, vol. iii. pp. 409, 412. See also Sir Wm. Scott, in the Court of Admiralty, Ibid., p. 421.
The British authorities understood that, by relinquishing these rights, they would abandon in great measure the control of the sea, so far as useful to war. The United States have received their lesson in history. If the principle contended for by their representatives, Marshall and Pinkney, had been established as international law before 1861, there could have been no blockade of the Southern coast in the Civil War. The cotton of the Confederacy, innocent "private property," could have gone freely; the returns from it would have entered unimpeded; commerce, the source of national wealth, would have flourished in full vigor; supplies, except contraband, would have flowed unmolested; and all this at the price merely of killing some hundred thousands more men, with proportionate expenditure of money, in the effort to maintain the Union, which would probably have failed, to the immeasurable loss of both sections.

The British Government took some time to analyze the "inarticulate import" of the Berlin Decree. Hence, in the paper presented to Monroe and Pinkney, stress was laid upon the methods only, ignoring the object of compelling Great Britain to surrender her maritime rights. In the methods, however, instinct divined the true character of the plotted evil. There was to be formed, under military pressure, a vast political combination of states pledged to exclude British commerce from the markets of the Continent; a design which in execution received the name of the Continental System. The Decree being issued after the battle of Jena, upon the eve of the evident complete subjugation of Prussia, following that of Austria the year before, there was room to fear that the predominance of Napoleon on the Continent would compel in Europe universal compliance with these measures of exclusion. It so proved, in fact, in the course of 1807, leading to a commercial warfare of extraordinary rigor, the effects of which
upon Europe have been discussed by the author in a previous work. Its influence upon the United States is now to be considered; for it was a prominent factor in the causes of the War of 1812.

Although in a military sense weak to debility, and politically not welded as yet into a nation, strong in a common spirit and accepted traditions, the United States was already in two respects a force to be considered. She possessed an extensive shipping, second in tonnage only to that of the British Islands, to which it was a dangerous rival in maintaining the commercial intercourse of Europe; while her population and purchasing power were so increased as to constitute her a very valuable market, manufacturing for which was chiefly in the hands of Great Britain. It became, therefore, an object with Napoleon, in prosecution of the design of the Berlin Decree, to draw the United States into co-operation with the European continental system, by shutting her ports to Great Britain; while the latter, confronted by this double danger, sought to impose upon neutral navigation — almost wholly American — such curtailment as should punish the Emperor and his tributaries for their measures of exclusion, and also neutralize the effect of these by forcing the British Islands into the chain of communication by which Europe in general was supplied. To retaliate the Berlin Decree upon the enemy, and by the same means to nourish the trade of Great Britain, was the avowed twofold object. The shipping of the United States found itself between hammer and anvil, crushed by these opposing policies. Napoleon banned it from continental harbors, if coming from England or freighted with English goods; Great Britain forbade it going to a continental port, unless it had first touched at one of hers; and both inflicted penalties of

1 Influence of Sea Power upon the French Revolution and Empire, chaps. xvii., xviii.
confiscation, when able to lay hands on a vessel which had violated their respective commands.

The lack of precision in the terms of the Berlin Decree exposed it from the first to much latitude of interpretation; and the Emperor remaining absent from France for eight months after its promulgation, preoccupied with an arduous warfare in Eastern Europe, the construction of the edict by the authorities in Paris made little alteration in existing conditions. Nevertheless, the impulse to retaliate prevailed; and the British ministry with which Monroe and Pinkney had negotiated, though comparatively liberal in political complexion, would not wait for more precise knowledge. The occasion was seized with a precipitancy which lent color to Napoleon's assertion, that the leading aim was to favor their own trade by depressing that of others. This had already been acknowledged as the motive for interrupting American traffic in West India produce. Now again, one week only after stating to Monroe and Pinkney that they "could not believe that the enemy will ever seriously attempt to enforce such a system," and without waiting to ascertain whether neutral nations, the United States in particular, would, "contrary to all expectations, acquiesce in such usurpations," the Government on January 7, 1807, with no information as to the practical effect given to the Decree in operation, issued an Order in Council, which struck Americans directly and chiefly. Neutrals were forbidden to sail from one port to another, both of which were so far under the control of France or her allies that British vessels might not freely trade thereat. This was aimed immediately at trade along the coast of Europe, but it included, of course, the voyages from a hostile colony to a hostile European port already interdicted by British rulings, of which

the new Order was simply an extension. It fell with particular severity on Americans, accustomed to go from port to port, not carrying on local coasting, but seeking markets for their outward cargoes, or making up a homeward lading. It is true that the Cabinet by which the Order was issued did not intend to forbid this particular procedure; but the wording naturally implied such prohibition, and was so construed by Madison, who communicated his understanding to the British minister at Washington. Before this letter could reach London, the ministry changed, and the new Government refrained from correcting the misapprehension. For this it was taken to task in Parliament, by Lords Holland and Grenville. 

Monroe had once written to the British Foreign Secretary that “it cannot well be conceived how it should be lawful to carry on commerce from one port to another of the parent country, and not from its colonies to the mother country.” This well meant argument, in favor of opening the colonial trade, gave to the new step of the British Cabinet a somewhat gratuitous indorsement of logical consistency. A consciousness of this may have underlain the remarkable terms in which this grievous restriction was imparted to the United States Government, as evincing the singular indulgence of Great Britain. Her minister in Washington, in conveying the Order to the State Department, wrote: “His Majesty, with that forbearance and moderation which have at all times distinguished his conduct, has determined for the present to confine himself to exercising his decided naval superiority in such a manner only as is authorized by the acknowledged principles of the laws of nations, and has issued an Order for preventing all commerce from port to port of his enemies; com-

1 American State Papers, Foreign Relations, vol. iii. p. 159.
prehending in this Order not only the ports of France, but those of other nations, as, either in alliance with France, or subject to her dominion, have, by measures of active offence or by the exclusion of British ships, taken part in the present war." 1 These words characterized the measure as strictly retaliatory. They implied that the extra-legal action of the enemy would warrant extra-legal action by Great Britain, but asserted expressly that the present step was sanctioned by existing law,—"in such a manner only as is authorized by the acknowledged principles of the law of nations." The prohibition of coasting trade could be brought under the law of nations only by invoking the Rule of 1756, forbidding neutrals to undertake for a state at war employment denied to them in peace. Of this, coasting was a precise instance; but to call the Rule an acknowledged principle of the law of nations was an assumption peculiarly calculated to irritate Madison, who had expended reams in refutation. He penned two careful replies, logical, incisive, and showing the profound knowledge of the subject which distinguished him; but in a time of political convulsion he contended in vain against men who wore swords and thought their country's existence imperilled.

The United States authorities argued by text and precedent. To the end they persisted in shutting their eyes to the important fact, recognized intuitively by Great Britain, that the Berlin Decree was no isolated measure, to be discussed on its separate merits, but an incident in an unprecedented political combination, already sufficiently defined in tendency, which overturned the traditional system of Europe. It destroyed the checks inherent in the balance of power, concentrating the whole in the hands of Napoleon, to whom there remained on the Continent only one valid counterweight, the Emperor of Russia, whom he soon

1 American State Papers, Foreign Relations, vol. iii. p. 158.
after contrived to lead into his scheme of policy. The balance of power was thus reduced to the opposing scales of Great Britain and France, and for five years so remained. The Continental System, embracing all the rest of Europe, was arrayed against Great Britain, and might well look to destroy her, if it could command the support of the United States. Founded upon armed power, it proposed by continuous exertion of the same means to undermine the bases of British prosperity, and so to subvert the British Empire. The enterprise was distinctly military, and could be met only by measures of a similar character, to which existing international law was unequal. The corner-stone was the military power of Napoleon, which, by nullifying the independence of the continental states, compelled them to adopt the methods of the Berlin Decree contrary to their will, and contrary to the wishes, the interests, and the bare well-being of their populations. “You will see,” wrote an observant American representative abroad, “that Napoleon stalks at a gigantic stride among the pygmy monarchs of Europe, and bends them to his policy. It is even an equal chance if Russia, after all her blustering, does not accede to his demands without striking a blow.”¹ To meet the danger Great Britain opposed a maritime dominion, equally exclusive, equally founded on force, and exercised in equally arbitrary fashion over the populations of the sea.

At the end of March, 1807, the British Cabinet with which Monroe and Pinkney had negotiated went out of office. Their successors came in prepared for extreme action in consequence of the Berlin Decree; but their hand was for the moment stayed, because its enforcement remained in abeyance, owing to the Emperor’s continued absence in the field. Towards the claims of the United

¹ Jonathan Russell to the Secretary of State, Nov. 15, 1811. U. S. State Department MSS.
States their attitude was likely to be uncompromising; and the Secretary for Foreign Affairs, Canning, to whom fell the expression of the Government’s views and purposes, possessed an adroitness in fastening upon minor weaknesses in a case, and postponing to such the consideration of the important point at issue, which, coupled with a peremptoriness of tone often bordering on insolence, effected nothing towards conciliating a people believed to be both unready and unwilling to fight. The American envoys, at their first interview, in April, met him with the proposition of their Government to reopen negotiations on the basis of the treaty of December 31. Learning from them that the treaty would not be ratified without a satisfactory arrangement concerning impressment, Canning asked what relations would then obtain between the two nations. The reply was that the United States Government wished them placed informally on the most friendly footing; that is, that an understanding should be reached as to practical action to be expected on either side, without concessions of principle.\(^1\) As final instructions from Washington were yet to come, it was agreed that the matter should be postponed. When they arrived, on July 16, the envoys drew up a letter, submitting the various changes desired; but conveying also the fixed determination of the President “to decline any arrangement, formal or informal, which does not comprise a provision against impressments from American vessels on the high seas, and which would, notwithstanding, be a bar to legislative measures by Congress for controlling that species of aggression.”\(^2\)

This letter was dated July 24, but by the time it could be delivered news arrived which threw into the background all matters of negotiation and illustrated with what respect

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\(^2\) Ibid., p. 166.
British naval officers regarded "the instructions, repeated and enforced, for the observance of the greatest caution in impressing British seamen." It is probable, indeed, that the change of ministry, and the well-understood tone of the new-comers, had modified the influence of these restraining orders; and Canning evidently felt that such an inference was natural, for Monroe reported his noticeable desire "to satisfy me that no new orders had been issued by the present ministry to the commandant of the British squadron at Halifax," who was primarily responsible for the lamentable occurrence which here traversed the course of negotiation. It had been believed, and doubtless correctly, that some deserters from British ships of war had found their way into the naval service of the United States. In June, 1807, the American frigate "Chesapeake," bearing the broad pendant of Commodore James Barron, had been fitting for sea in Hampton Roads. At this time two French ships of war were lying off Annapolis, a hundred miles up Chesapeake Bay; and, to prevent their getting to sea, a small British squadron had been assembled at Lynnhaven Bay, just within Cape Henry, a dozen miles below the "Chesapeake's" anchorage. They were thus, as Jefferson said, enjoying the hospitality of the United States. On June 22 the American frigate got under way for sea, and as she stood down, one of the British, the "Leopard" of fifty guns, also made sail, going out ahead of her. Shortly after noon the "Chesapeake" passed the Capes. When about ten miles outside, a little after three o'clock, the "Leopard" approached, and hailed that she had a despatch for Commodore Barron. This was brought on board by a lieutenant, and proved to be a letter from the captain of the "Leopard," enclosing an order from Vice-Admiral

1 The British Commissioners to Monroe and Pinkney, Nov. 8, 1806. Ibid., p. 140.
Berkeley, in charge of the Halifax station, "requiring and
directing the captains and commanders of his Majesty's
vessels under my command, in case of meeting the Ameri-
can frigate, the 'Chesapeake,' at sea, without the limits
of the United States, to show her captain this order, and
to require to search his ship for deserters from certain
British ships," specified by name. Upon Barron's re-
fusion, the "Leopard" fired into the "Chesapeake," killed
or wounded twenty-one men, and reduced her to submis-
sion. The order for search was then enforced. Four
of the American crew, considered to be British deserters,
were taken away. Of these, one was hanged; one died;
and the other two, after prolonged disputation, were re-
turned five years later to the deck of the "Chesapeake,"
in formal reparation.

Word of this transaction reached the British Govern-
ment before it did Monroe, who was still sole American
minister for all matters except the special mission. Can-
nning at once wrote him a letter of regret, and spontane-
ously promised "prompt and effectual reparation," if upon
receipt of full information British officers should prove
culpable. Four days later, July 29, Monroe and Canning
met in pursuance of a previous appointment, the object
of which had been to discuss complaints against the con-
duct of British ships of war on the coast of the United
States. The "Chesapeake" business naturally now over-
shadowed all others. Monroe maintained that, on prin-
ciple, a ship of war could not be entered to search for
deserters, or for any purpose, without violating the sov-
erignty of her nation. Canning was very guarded; no
admission of principle could then be obtained from him;
but he gave Monroe to understand that, in whatever light
the action of the British officer should be viewed by his
Government, the point whether the men seized were British
subjects or American citizens would be of consideration,
in the question of restoring them, now that they were in British hands. Monroe, in accordance with the position of his Government on the subject of impressment, replied that the determining consideration was not the nationality of the men, but of the ship, the flag of which had been insulted.

The conference ended with an understanding that Monroe would send in a note embodying his position and claims. This he did the same day; but his statements were grounded upon newspaper accounts, as the British Government had not yet published Berkeley’s official report. He would not await the positive information that must soon be given out, but applied strong language to acts not yet precisely ascertained; and he mingled with the “Chesapeake” affair other very real, but different and minor, subjects of complaint, seemingly with a view to cumulative effect. He thus made the mistake of encumbering with extraneous or needless details a subject which required separate, undivided, and lucid insistence; while Canning found an opportunity, particularly congenial to his temperament, to escape under a cloud of dignified words from the simple admission of wrong, and promise of reparation, which otherwise he would have had to face. He could assume a tone of haughty rebuke, where only that of apology should have been left open. His reply ran thus:

I have the honor to acknowledge your official note of the 29th ultimo, which I have lost no time in laying before the King.

As the statement of the transaction to which this note refers is not brought forward either by the authority of the Government of the United States, or with any precise knowledge of the facts on which it is founded, it might have been sufficient for me to express to you his Majesty’s readiness to take the whole of the circumstances of the case, when fully disclosed, into his

consideration, and to make reparation for any alleged injury to
the sovereignty of the United States, whenever it should be
clearly shown that such injury has been actually sustained, and
that such reparation is really due.

Of the existence of such a disposition on the part of the
British Government, you, Sir, cannot be ignorant: I have
already assured you of it, though in an unofficial form, by the
letter which I addressed you on the first receipt of the intel-
ligence of this unfortunate transaction; and I may, perhaps,
be permitted to express my surprise, after such an assurance,
at the tone of that representation which I have just had the
honor to receive from you.

But the earnest desire of his Majesty to evince, in the most
satisfactory manner, the principles of justice and moderation
by which he is uniformly actuated, has not permitted him to
hesitate in commanding me to assure you, that his Majesty
neither does, nor has at any time maintained the pretension of
a right to search ships of war, in the national service of any
State, for deserters.

If, therefore, the statement in your note should prove to be
correct, and to contain all the circumstances of the case, upon
which the complaint is intended to be made, and it shall appear
that the action of his Majesty's officers rested on no other
grounds than the simple and unqualified assertion of the pre-
tension above referred to, his Majesty has no difficulty in dis-
avowing the act, and will have no difficulty in manifesting his
displeasure at the conduct of his officers.

With respect to the other causes of complaint, (whatever they
may be,) which are hinted at in your note, I perfectly agree
with you, in the sentiment which you express, as to the pro-
priety of not involving them in a question, which of itself is of
sufficient importance to claim a separate and most serious
consideration.

I have only to lament that the same sentiment did not induce
you to abstain from alluding to these subjects, on an occasion
which you were yourself of opinion was not favorable for pur-
suing the discussion of them.¹

¹ American State Papers, Foreign Relations, vol. iii. p. 188. Author's
italics.
I have the honor to be, with great consideration, your most obedient, humble servant

James Monroe, Esq. &c.

While the right of the occasion was wholly with the American nation, the honors of the discussion, the weight of the first broadside, rested so far with the British Secretary; the more so that Monroe, by his manner of ad- ducing his "other causes of complaint," admitted their irrelevancy and yet characterized them irritatingly to his correspondent. "I might state other examples of great indignity and outrage, many of which are of recent date, to which the United States have been exposed off their own coast, and even within several of their harbors, from the British squadron; but it is improper to mingle them with the present more serious causes of complaint." This invited Canning's retort,—You do mingle them, in the same sentence in which you admit the impropriety. And why, he shrewdly insinuated, precipitate action ahead of knowledge, when the facts must soon be known? The unspoken reason is evident. Because a government, which by its own fault is weak, will try with big words to stone to the public opinion of its people for that which it cannot, or will not, effect in deeds. Bluster, whether measured or intemperate in terms, is bluster still, as long as it means only talk, not act.

Monroe comforted himself that, though Canning's note was "harsh," he had obtained the "concession of the point desired." 1 He had in fact obtained less than would probably have resulted from a policy of which the premises were assured, and the demands rigorously limited to the particular offence. Canning's note set the key for the subsequent British correspondence, and dictated the methods by which he persistently evaded an amends

spontaneously promised under the first emotions produced by an odious aggression. He continued to offer it; but under conditions impossible of acceptance, and as discreditable to the party at fault as they were humiliating to the one offended. In themselves, the first notes exchanged between Monroe and Canning are trivial, a revelation chiefly of individual characteristics. Their interest lies in the exemplification of the general course of the American administration, imposed by its years of temporizing, of money-getting, and of military parsimony. President Jefferson in America met the occasion precisely as did Monroe in London, with the same result of a sharp correspondence, abounding in strong language, but affording Canning further opportunity to confuse issues and escape from reparations, which, however just and wise, were distasteful. It was a Pyrrhic victory for the British minister, destroying the last chance of conciliating American acquiescence in a line of action forced upon Great Britain by Napoleon; but as a mere question of dialectics he had scored a success.

When the news of the “Chesapeake” outrage was received in Washington, Jefferson issued a proclamation, dated July 2, 1807, suited chiefly for home consumption, as the phrase goes. He began with a recitation of the various wrongs and irritations, undeniable and extreme, which his long-suffering Administration had endured from British cruisers, and to which Monroe alluded in his note to Canning. Upon this followed an account of the “Chesapeake” incident, thus inextricably entangled with other circumstances differing from it in essential feature. Then, taking occasion by a transaction which, however reprehensible, was wholly external to the territory of the United States, — unless construed to extend to the Gulf Stream, according to one of Jefferson’s day-dreams, — action was based upon the necessity of providing for the internal peace
of the nation and the safety of its citizens, and consequently of refusing admission to British ships of war, as inconsistent with these objects. Therefore, "all armed vessels, bearing commissions under the Government of Great Britain, now within the harbors of the United States, are required immediately and without any delay to depart from the same; and entrance of all the said harbors and waters is interdicted to the said armed vessels, and to all others bearing commissions under the authority of the British Government." Vessels carrying despatches were excepted.

This procedure had the appearance of energy which momentarily satisfies a public demand that something shall be done. It also afforded Canning the peg on which to hang a grievance, and dexterously to prolong discussion until the matter became stale in public interest. By the irrelevancy of the punishment to the crime, and by the intrusion of secondary matters into the complaint, the "Chesapeake" issue, essentially clear, sharp, and impressive, became hopelessly confused with other considerations. Upon the proclamation followed a despatch from Madison to Monroe, July 6, which opened with the just words, "This enormity is not a subject for discussion," and then proceeded to discuss at length. Demand was to be made, most properly, for a formal disavowal, and for the restoration of the seamen to the ship. This could have been formulated in six lines, and had it stood alone could scarcely have been refused; but to it was attached indissolubly an extraneous requirement. "As a security for the future, an entire abolition of impressment from vessels" 1 under the flag of the United States, if not already arranged, is also to make an indispensable part of the satisfaction." 2

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1 That is, all vessels, including merchantmen.

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This made accommodation hopeless. Practically, it was an ultimatum; for recent notorious discussion had demonstrated that this the British Government would not yield, and as it differed essentially from the point at issue in the "Chesapeake" affair, there was no reason to expect a change of attitude in consequence of that. Great as was the wrong to a merchant vessel, it has not the status of a ship of war, which carries even into foreign ports a territorial immunity resembling that of an ambassador, representing peculiarly the sovereignty of its nation. Further, the men taken from the "Chesapeake" were not seized as liable to impressment, but arrested as deserters; the case was distinct. Finally, Great Britain's power to maintain her position on impressment had certainly not waned under the "Chesapeake" humiliation, and was not likely to succumb to peremptory language from Madison. No such demand should have been advanced, in such connection, by a self-respecting government, unless prepared to fight instantly upon refusal. The despatch indeed contains cautions and expressions indicating a sense of treading on dangerous ground; an apprehension of exciting hostile action, though no thought of taking it. The exclusion of armed vessels was justified "by the vexations and dangers to our peace, experienced from these visits." The reason, if correct, was adequate as a matter of policy under normal conditions; but it became inconsistent with self-respect when the national flag was insulted in the attack on the "Chesapeake." Entire composure, and forbearance from demonstrations bearing a trace of temper, alone comport with such a situation. To distinguish against British ships of war at such a moment, by refusing them only, and for the first time, admission into American harbors, was either a humiliating confession of impotence to maintain order within the national borders, or it justified Canning's con-
tention that it was in retaliation for the “Leopard’s” action. His further plea, that it must therefore be taken into the account in determining the reparation due, was pettifoggling, reducing a question of insult and amends to one of debit and credit bookkeeping; but the American claim that the step was necessary to internal quiet was puerile, and its precipitancy carried the appearance of petulance.

Monroe received Madison’s despatch August 30, and on September 3 had an interview with Canning. In it he specified the redress indicated by Madison. With this was coupled an intimation that a special mission to the United States ought to be constituted, to impart to the act of reparation “a solemnity which the extraordinary nature of the aggression particularly required.” This assertion of the extraordinary nature of the occasion separated the incident from the impressment grievance, with which Madison sought to join it; but what is more instructively noticeable is the contrast between this extreme formality, represented as requisite, and the wholly informal, and as it proved unreal, withdrawal by Napoleon of his Decrees, which the Administration of Madison at a later day maintained to be sufficient for the satisfaction of Great Britain.

In this interview Canning made full use of the advantages given him by his adversaries’ method of presentation and action. “He said that by the President’s proclamation, and the seizure and detention of some men who had landed on the coast to procure water, the Government seemed to have taken redress into its own hands.” To Monroe’s statement that “the suppression of the practice of impressment from merchant vessels had been made indispensable by the late aggression, for reasons which were sufficiently known to him,” he retorted, “that the late aggression was an act different in all respects to the

former practice; and ought not to be connected with it, as it showed a disposition to make a particular incident, in which Great Britain was in the wrong, instrumental to an accommodation in a case in which his Government held a different doctrine.” The remark went to the root of the matter. This was what the Administration was trying to do. As Madison afterwards put it to Rose, the President was desirous “of converting a particular incident into an occasion for removing another and more extensive source of danger to the harmony of the two countries.” This plausible rendering was not likely to recommend to a resolute nation such a method of obtaining surrender of a claimed right. The exclusion proclamation Monroe represented to be “a mere measure of police indispensable for the preservation of order within the United States.” Canning declined to be shaken from his stand that it was an exhibition of partiality against Great Britain, the vessels of which alone were excluded, because of an outrage committed by one of them outside of American waters. The time at which the proclamation issued, and the incorporation in it of the “Chesapeake” incident, made this view at least colorable.

This interview also was followed by an exchange of notes. Monroe’s of September 7, 1807, developed the American case and demand as already given. That of Canning, September 23, stated as follows the dilemma raised by the President’s proclamation: Either it was an act of partiality between England and France, the warships of the latter being still admitted, or it was an act of retaliation for the “Chesapeake” outrage, and so of the nature of redress, self-obtained, it is true, but to be taken into account in estimating the reparation which the British Government “acknowledged to have been originally due.”

To the request for explanation Monroe replied lamely,

with a statement which can scarcely be taken as other than admitting the punitive character of the proclamation. "There certainly existed no desire of giving a preference;" but,—"Before this aggression it is well known that His Britannic Majesty's ships of war lay within the waters of the Chesapeake, and enjoyed all the advantages of the most favored nation; it cannot therefore be doubted that my Government will be ready to restore them to the same situation as soon as it can be done consistently with the honor and rights of the United States." 1

In closing his letter of September 23, Canning asked Monroe whether he could not, consistently with his instructions, separate the question of impressment from that of the “Chesapeake.” If not, as it was the fixed intention of his Government not to treat the two as connected, the negotiation would be transferred to Washington, and a special envoy sent. "But in order to avoid the inconvenience which has arisen from the mixed nature of your instructions, he will not be empowered to entertain, as connected with this subject, any proposition respecting the search of merchant vessels." 2 Monroe replied that his “instructions were explicit to consider the whole of this class of injuries as an entire subject." 3 To his inquiry as to the nature of the special mission, in particulars, Canning replied that it would be limited in the first instance to the question of the “Chesapeake.” Whether it would have any further scope, he could not say. 4

Mr. George Henry Rose was nominated for this mission, and sailed from England in November. Before his departure, the British Government took a further step, which in view of the existing circumstances, and of all that had preceded, emphasized beyond the possibility of

2 Ibid., Foreign Relations, vol. iii. p. 201.
4 Ibid., p. 203.
withdrawal the firmness of its decision not to surrender the claim to impress British subjects from foreign merchant vessels. On October 16, 1807, a Royal Proclamation was issued, recalling all seafaring persons who had entered foreign services, whether naval or merchant, directing them to withdraw at once from such service and return home, or else to ship on board any accessible British ship of war. Commanders of naval vessels were ordered to seize all such persons whenever found by them on board foreign merchantmen. In the case of British-born subjects, known to be serving on board foreign men-of-war,—which was the case of the "Chesapeake,"—the repetition of the outrage was implicitly forbidden, by prescribing the procedure to be observed. Requisition for the discharge of such persons was to be made on the foreign captain, and, in case of refusal, the particulars of the case were to be transmitted to the British minister to the nation concerned, or to the British home authorities; "in order that the necessary steps may be taken for obtaining redress...for the injury done to us by the unwarranted detention of our natural-born subjects in the service of a foreign state." The proclamation closed by denying the efficacy of letters of naturalization to discharge native British from their allegiance of birth.

Rose's mission proved abortive. Like Monroe's, his instructions were positive to connect with his negotiation a matter which, if not so irrelevant as impressment, was at least of a character that a politic foreign minister might well have disregarded, in favor of the advantage to be gained by that most conciliatory of actions, a full and cordial apology. Rose was directed not to open his business until the President had withdrawn the proclamation excluding British ships of war. Having here no more option than Monroe as to impressment, the negotiation became iron-bound. The United States Government went
to the utmost limit of concession to conclude the matter. Receding from its first attitude, it agreed to sever the question of impressment from that of the "Chesapeake;" but, with regard to the recalling of the President’s proclamation, it demanded that Rose should show his cards, should state what was the nature and extent of the reparation he was empowered to offer, and whether it was conditioned or unconditioned. If this first outcome were such as to meet the just expectations of the Administration, revocation of the proclamation should bear the same date as the British act of reparation. Certainly, more could not be offered. The Government could not play a blind game, yielding point after point in reliance upon the unknown contents of Rose’s budget. This, however, was what it was required to do, according to the British envoy’s reading of his orders, and the matter terminated in a fruitless exchange of argumentation.\footnote{The principal part of the correspondence between Rose and Madison will be found in American State Papers, Foreign Relations, vol. iii. pp. 213–220. Rose’s instructions from Canning were first published by Mr. Henry Adams, History of the United States, vol. iv. pp. 179–182. They were of a character that completely justify the caution of the American Government in refusing to go further without knowing their contents, concerning which, indeed, Madison wrote that a glimpse had been obtained in the informal interviews, which showed their inadmissibility. Madison to Pinkney, Feb. 19, 1808, U. S. State Department MSS.} In April, 1808, Rose quitted the country, and redress for the "Chesapeake" injury remained in abeyance for three years longer. Interest in it had waned under more engrossing events which had already taken place, and it was relegated by both Governments to the background of diplomacy. Admiral Berkeley had been recalled, as a mark of his Majesty’s disapproval. He arrived in England in the beginning of 1808, some six months after the outrage, accompanied by the "Leopard." Her captain was not again given a ship; but before the end of the year the chief offender, the admiral, had been assigned to the important command
at Lisbon. To Pinkney's observation upon this dissatisfying proceeding, Canning replied that it was impossible for the Admiralty to resist his claim to be employed (no other objection existing against him) after such a lapse of time since his return from Halifax, without bringing him to a court-martial. In the final settlement, further punishment of Berkeley was persistently refused.

Although standing completely apart from the continuous stream of connected events which constituted contemporaneous history, — perhaps because of that very separateness, — the “Chesapeake” affair marks conspicuously the turning-point in the relations of the two countries. In point of time, its aptness as a sign-post is notable; for it occurred just at the moment when the British ministry, under the general exigencies of the situation, and the particular menace of the Tilsit compacts between Napoleon and the Czar, were meditating the new and extraordinary maritime system by which alone they might hope to counteract the Continental system that now threatened to become truly coextensive with Europe. But to the writer the significance of the “Chesapeake” business is more negative than positive; it suggests rather what might have been under different treatment by the Portland ministry. The danger to Great Britain was imminent and stupendous, and her measures of counteraction needed to correspond. These were confessedly illegal in the form they took, and were justified by their authors only on the ground of retaliation. Towards neutrals, among whom the United States were by far the chief, they were most oppressive. Yet for over four years not only did the American Government endure them, but its mercantile community conformed to the policy of Great Britain, found profit in so doing, and deprecated resort to war. At a later day Jefferson

1 American State Papers, Foreign Relations, vol. iii. p. 300.
asserted bitterly that under British influence one fourth of the nation had compelled the other three fourths to abandon the embargo. Whether this be quite a fair statement may be doubted; but there was in it so much of truth as to suggest the possibility, if not of acquiescence in the Orders in Council, at least of such abstention from active resentment as would have been practically equivalent.

The acquiescence, if possible even the co-operation, of America was at this time momentous to Great Britain as well as to Napoleon. To complete his scheme for ruining his enemy, by closing against her commerce all the ports of Europe, the Emperor needed to deprive her also of access to the markets of the United States; while the grave loss to which Great Britain was exposed in the one quarter made it especially necessary to retain the large and increasing body of consumers across the Atlantic. In the United States there was a division of public opinion and feeling, which offered a fair chance of inclining national action in one direction or the other. Although the Treaty of Commerce and Navigation of December 31, 1806, had been rejected by the Administration, and disapproved by the stricter followers of Jefferson and Madison, it was regarded with favor in many quarters. Its negotiators had represented the two leading parties which divided the nation. Monroe was a republican, traditionally allied to Jefferson; Pinkney was a federalist. Although in it the principles of the United States had not been successfully asserted, as regarded either impressment or the transport of colonial produce, the terms of compromise had commanded their signatures, because they held that in effect the national objects were obtained; that impressment would practically cease, and the carrying trade, under the restrictions they had accepted, would not only flourish, but be as
remunerative as before. Monroe, who had a large personal following in his state and party, maintained this view in strong and measured language after his return home; and it found supporters in both political camps, as well as upon the floor of the two houses of Congress. Then, and afterwards, it was made a reproach to the Administration that it had refused a working arrangement which was satisfactory in its substantial results and left the principles of the country untouched for future assertion. Whatever may be thought, from an American standpoint, of the justice or dignity of this position, it showed grave divergences of sentiment, from which it is the skill of an opposing diplomatist to draw profit. It is impossible to estimate the effect upon the subsequent course of America, if the British ministry, with a certain big-heartedness, had seized the opportunity of the "Chesapeake" affair; if they had disclaimed the act of their officers with frankness and cordiality, offering ungrudging regret, and reparation proportionate to the shame inflicted upon a community too weak in military power to avenge its wrongs. As it was, at a moment when the hostilities she had provoked would have been most embarrassing, Great Britain escaped only by the unreadiness of the American Government.

Left unavowed, the attack on the "Chesapeake" remained in American consciousness where Jefferson and Madison had sought to place it,—an example of the outrages of impressment. The incidental violence, which aroused attention and wrath, differed in nothing but circumstance from the procedure when an unresisting merchant vessel was deprived of men. In both cases there was the forcible exaction of a disputed claim. Canning, indeed, was at pains to explain that originally the British right extended to vessels of every kind; but "for nearly a century the Crown had forborne to instruct the com-
manders of its ships of war to search foreign ships of war for deserters, ... because to attack a national ship of war is an act of hostility. The very essence of the charge against Admiral Berkeley, as you represent it, is the having taken upon himself to commit an act of hostility without the previous authority of his Government." Under this construction, the incident only served to emphasize the fundamental opposition of principle, and to exasperate the war party in the United States. To deprive a foreign merchant vessel of men was not considered a hostile act; and the difference in the case of ships of war was only because the Crown chose so to construe. The argument was, that to retain seamen of British birth, when recalled by proclamation, was itself hostile, because every such seaman disobeying this call was a deserter. It was to be presumed that a foreign Power would not countenance their detention, and on this presumption no search of its commissioned ships was ordered. "But with respect to merchant vessels there is no such presumption."  

While the "Chesapeake" affair was still in its earlier stages of discussion, the passage of events in Europe was leading rapidly to the formulation of the extreme British measures of retaliation for the Berlin Decree. On June 14 Napoleon defeated the Russians at the battle of Friedland; and on June 22, the day the "Leopard" attacked the "Chesapeake," an armistice was signed between the contending parties. Upon this followed the Conventions of Tilsit, July 8, 1807, by which the Czar undertook to support the Continental system, and to close his ports to Great Britain. The deadly purpose of the commercial warfare thus reinforced was apparent; and upon the Emperor's return to Paris, soon afterwards, the Berlin Decree received an execution more consonant to its wording than was the construction hitherto given it by

French officials. In May, an American ship, the "Horizon," bound from England to Peru, had been wrecked upon the coast of France. Her cargo consisted in part of goods of British origin. Up to that time, no decisions contrary to American neutral rights had been based upon the Decree by French courts; but final action in the case of the "Horizon" was not taken till some time after the Emperor's return. Meanwhile, on August 8, General Armstrong, the American minister, had asked that Spain, which had formally adopted the Berlin Decree as governing its own course, should be informed of the rulings of the French authorities; "for a letter from the chargé des affaires of the United States at Madrid shows that the fate of sundry American vessels, captured by Spanish cruisers, will depend, not on the construction which might be given to the Spanish decree by Spanish tribunals, but on the practice which shall have been established in France." ¹ This letter was referred in due course — August 21 — to the Minister of Marine, and a reply promised when his answer should be received. Under Napoleon's eye, doubts not entertained in his absence seem to have occurred to the ministers concerned, and on September 24 Armstrong learned that the Emperor had been consulted, and had said that, as he had expressed no exceptions to the operation of his Decree, French armed vessels were authorized to seize goods of English origin on board neutral vessels. This decision, having the force of law, was communicated to the tribunals, and under it so much of the "Horizon's" cargo as answered to this description was condemned. The rest was liberated.²

When this decision became known, it was evident that within the range of Napoleon's power there would

¹ American State Papers, Foreign Relations, vol. iii. p. 245.
² Ibid., pp. 244–245.
henceforth be no refuge for British manufactures, or the produce of British colonies; that neutral ownership or jurisdiction would be no protection against force. Even the pity commonly extended to the shipwrecked failed, if his property had been bought in England. Recognition of the increased danger was shown in the doubling and trebling of insurance. The geographical sweep intended to be given to the edict was manifested by the action of state after state whither arms had extended Napoleon’s influence; or, as Armstrong phrased it, “having settled the business of belligerents, with the exception of England, very much to his own liking, he was now on the point of settling that of neutrals in the same way.”

In July, Denmark and Portugal, as yet at peace, had been notified that they must choose between France and England, and had been compelled to exclude English commerce. August 29, a French division entered Leghorn, belonging to the nominally independent Kingdom of Etruria, took possession of the harbor and forts, ordered the surrender of all British goods in the hands of the inhabitants, and laid a general embargo upon the shipping, among which were many Americans. In Lower Italy, the Papal States and Naples underwent the same restrictions. Prussia yielded under obvious constraint, and Austria acceded from motives of policy, distinguishable in form only from direct compulsion. Russia, as already said, had joined immediately after decisive defeat in the field. The cooperation of the United States, the second maritime nation in the world, was vital to the general plan. Could it be secured? Already, at an audience given to the diplomatic corps on August 2, the Danish minister had taken Armstrong aside and asked him whether any application had been made to him with regard to the projected union of all commercial states against Great Britain. Being answered in the negative, he said, “You are much
favored, but it will not last."\(^1\) Armstrong characterized this incident as not important; but in truth the words italicized defined exactly the menacing scheme already matured in the Emperor's mind, for the execution of which, as events already showed, and continued to prove, he relied upon the force of arms. To this the United States was not accessible; but to coerce or cajole her by other means became a prominent feature of French policy, which was powerfully abetted by the tone of Great Britain speaking through Canning.

To appreciate duly the impending measures of the British ministry, attention should fasten upon the single decisive fact that this vast combination was not the free act of the parties concerned, but a submission imposed by an external military power, which at the moment, and for five succeeding years, they were unable to resist. It is one thing to deny the right of any number of independent communities to join in a Customs Union; it is another to maintain the obligations upon third parties of such a convention, when extorted by external compulsion. Either action may be resisted, but means not permissible in the one case may be justified in the other. In the European situation the subjected states, by reason of their subjection, disappeared as factors in diplomatic consideration. There remained only their master Napoleon, with his momentary lieutenant the Czar, and opposed to them Great Britain. "It is obvious," said the French Minister of Foreign Affairs, Champagny, to Armstrong, "that his Majesty cannot permit to his allies a commerce which he denies to himself. This would be at once to defeat his system and oppress his subjects."\(^2\) A few days later he wrote formally, "His Majesty considered himself bound

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\(^2\) Armstrong to Smith, U. S. Secretary of State, Jan. 28, 1810. Ibid., p. 380. Author's Italic.
to order reprisals on American vessels not only in his territory, but likewise in the countries which are under his influence, — Holland, Spain, Italy, Naples." \(^1\) The Emperor by strength of arms oppressed to their grievous injury those who could not escape him; what should be the course of those whom he could not reach, to whom was left the choice between actual resistance and virtual co-operation? The two really independent states were Great Britain and the United States. In the universal convulsion of civilization, the case of the several nations recalls the law of Solon, that in civil tumults the man who took neither side should be disfranchised.

The United States chose neutrality, and expected that it would be permitted her. She chose to overlook the interposition of Napoleon, and to regard the exclusion laws, forced by him upon other states, as instances of municipal regulation, incontestable when freely exercised. Not only would she not go behind the superficial form, but on technical grounds of international law she denied the right of another to do so. Great Britain had no choice. She was compelled to resistance; the question was as to methods. Direct military action was impossible. The weapon used against her was commercial prohibition, which meant eventual ruin, unless adequately parried by her own action. From Europe no help was to be expected. If the United States also decided so far to support Napoleon as to prosecute her trade subject to his measures, accepting as legal regulations extorted by him from other European countries, the trade of Europe would be transferred from Great Britain to America, and the revenues of France would expand in every way, while those of Great Britain shrank, — a result militarily fatal. In this the British Government would not acquiesce. It chose instead war with the United States, under the forms of peace.

\(^1\) American State Papers, vol. iii. p. 380. Author's italics.
That the tendency of the course pursued by the United States was to destroy British commerce, and that this tendency was successfully counteracted by the means framed by the British Government, — the Orders in Council, — admits of little doubt. When the American policy had worked out to its logical conclusion, in open trade with France, and complete interdict of importation from Great Britain, Joel Barlow, American Minister to France in 1811-12, and an intimate of Jefferson and Madison, wrote thus to the French Minister of Foreign Affairs: "In adopting the late arrangements with France the United States could not contemplate the deprivation of revenue. They really expected to draw from this country and from the rest of continental Europe the same species of manufactures, and to as great an amount as they were accustomed to do from England. They calculated with the more confidence on such a result as they saw how intimately it was combined with the great and essential interests of the Imperial Government. They perceived that it would promote in an unexpected degree the Continental system, which the Emperor has so much at heart. . . . The Emperor now commands nearly all the ports of continental Europe. The whole interior of the Continent must be supplied with American products. These must pass through French territory, French commercial houses, canals, and wagons. They must pay "toll to France in various ways, "and thus render these territories as tributary to France as if they were part of her own dominions." ¹

But Napoleon replied that his system, as it stood, had greatly crippled British commerce, and that if he should admit American shipping freely to the Continent, trade could not be carried on, because the English under the Orders in Council would take it all, going or coming.²

¹ Barlow to Bassano, Nov. 10, 1811. U. S. State Department MSS. Author's italics.
² Barlow to Monroe, Dec. 10, 1811. U. S. State Department MSS.
"The peril of the moment is truly supposed to be great beyond all former example," wrote Pinkney, now American minister in London, when communicating to his Government the further Orders in Council adopted by Great Britain, in response to the attempted "union of all the commercial states" against her. As defined by Canning to Pinkney,¹ "the principle upon which the whole of this measure has been framed is that of refusing to the enemy those advantages of commerce which he has forbidden to this country. The simplest method of enforcing this system of retaliation would have been to follow the example of the enemy, by prohibiting altogether all commercial intercourse between him and other states." America then would not be allowed to trade with the countries under his Decrees. It was considered, however, more indulgent to neutrals — to the second parties in commercial intercourse with the enemy — to allow this intercourse subject to duties in transit to be paid in Great Britain. This would raise the cost to the continental consumer and pay revenue to Great Britain.

The Orders in Council of November 11, 1807, therefore forbade all entrance to ports of the countries which had embraced the Continental system. It was not pretended that they would be blockaded effectively. "All ports from which the British flag is excluded shall from henceforth be subject to the same restrictions, in point of trade and navigation, with the exceptions hereinafter mentioned, as if the same were actually blockaded in the most strict and rigorous manner by his Majesty's naval forces." The exception was merely that a vessel calling first at a British port would be allowed to proceed to one of those prohibited, after paying certain duties upon her cargo and obtaining a fresh clearance. This measure was instituted by the Executive, in pursuance of the custom of regulating trade with

America by Orders in Council, prevalent since 1783; but it received legislative sanction by an Act of Parliament, March 28, 1808, which fixed the duties to be paid on the foreign goods thus passing through British custom-houses. Cotton, for instance, was to pay nine pence a pound, an amount intended to be prohibitory; tobacco, three halfpence. These were the two leading exports of United States domestic produce. In the United States this Act of Parliament was resented more violently, if possible, than the Order in Council itself. In the colonial period there had been less jealousy of the royal authority than of that of Parliament, and the feeling reappears in the discussion of the present measures. "This," said a Virginia senator,\(^1\) "is the Act regulating our commerce, of which I complain. An export duty, which could not be laid in Charleston because forbidden by our Constitution, is laid in London, or in British ports." It was literally, and in no metaphorical sense, the reimposition of colonial regulation, to increase the revenues of Great Britain by reconstituting her the entrepôt of commerce between America and Europe. "The Orders in Council," wrote John Quincy Adams in a public letter, "if submitted to, would have degraded us to the condition of colonists."\(^2\)

This just appreciation preponderated over other feelings throughout the middle and southern states. Adams, a senator from Massachusetts, had separated himself in action and opinion from the mass of the people in New England, where, although the Orders were condemned, hatred of Napoleon and his methods overrode the sense of injury received from Great Britain. The indignation of the supporters of the Administration was intensified by the apparent purpose of the British Government to keep back information of the measure. Rose had sailed the

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\(^2\) N. Y. Evening Post, May 12, 1808.
day after its adoption, Monroe two days later, but neither brought any official intimation of its issuance, although that was announced in the papers of the day. "The Orders in Council," wrote Adams, "were not merely without official authenticity. Rumors had been for several weeks in circulation, derived from English prints and from private correspondence, that such Orders were to issue,¹ and no inconsiderable pains were taken to discredit the facts. Suspicions were lulled by declarations equivalent as nearly as possible to positive denial, and these opiates were continued for weeks after the embargo was laid, until Mr. Erskine received orders to make official communication of the Orders themselves, in proper form, to our Government."² This remissness, culpable as it certainly was in a matter of such importance, was freely attributed to the most sinister motives. "These Orders in Council were designedly concealed from Mr. Rose, although they had long been deliberated upon, and almost matured, before he left London. They were the besom which was intended to sweep, and would have swept, our commerce from the ocean. Great Britain in the most insidious manner had issued orders for the entire destruction of our commerce."³

The wrath was becoming, but in this particular the inference was exaggerated. The Orders, modelled on

¹ Jefferson, under date of Nov. 15, 1807, alludes to such a report. (Jefferson's Works, vol. v. p. 211.) Already, indeed, on Aug. 19, 1807, an Order in Council, addressed to vessels bearing the neutral flags of Mecklenburg, Oldenburg, Papenburg, or Kniphausen, had been issued, which, though brief, imposed precisely the same restrictions as the later celebrated ones here under discussion. (Annual Register, 1807, State Papers, p. 730; Naval Chronicle, vol. xviii. p. 151.) The fact is interesting, as indicative of the date of formulating a project, for the execution of which the "Horizon" decision probably afforded the occasion.

² Erskine's communication was dated Feb. 23, 1808. (American State Papers, vol. iii. p. 209.) Pinkney, however, had forwarded a copy of the Orders on November 17. (Ibid., p. 203.) Canning's letter, of which Erskine's was a transcript, was dated Dec. 1, 1807. (British Foreign Office Archives.)

³ Senator Giles of Virginia. Annals of Congress, 1808-09, p. 218
the general plan of blockades, provided for the warning of a vessel which had sailed before receiving notification; and not till after a first notice by a British cruiser was she liable to capture. Mention of such cases occurs in the journals of the day. Some captains persisted, and, if successful in reaching a port under Napoleon's control, found themselves arrested under a new Decree,—that of Milan,—for having submitted to a visit they could not resist. Such were sequestered, subject to the decision of the United States to take active measures against Great Britain. "Arrived at New York, March 23, [1808], ship 'Eliza,' Captain Skiddy, 29 days from Bordeaux. All American vessels in France which had been boarded by British cruisers were under seizure. The opinion was, they would so remain till it was known whether the United States had adjusted its difficulties with Great Britain, in which case they would be immediately condemned. A letter from the Minister of Marine was published that the Decree of Milan must be executed severely, strictly, and literally." Independent of a perpetual need to raise money, by methods more consonant to the Middle Ages than to the current period, Napoleon thus secured

1 The following are instances: Philadelphia, February 23. The ship "Venus," King, hence to the Isle of France, has returned to port. January 17, Lat. 25° N., Long. 34° W., fell in with an English merchant fleet of thirty-six sail, under convoy of four ships of war. Was boarded by the sloop of war "Wanderer," which endorsed on all her papers, forbidding to enter any port belonging to France or her allies, they all being declared in a state of blockade. Captain King therefore put back. (N. Y. Evening Post, Feb. 24, 1808.) Salem, Mass., February 23. Arrived bark "Active," Richardson. Sailed hence for Malaga, December 12. January 2, Lat. 37° N., Long. 17° W., boarded by a British cruiser, and papers endorsed against entering any but a British port. The voyage being thus frustrated, Captain Richardson returned. Marblehead, February 29. Schooner "Minerva" returned, having been captured under the Orders in Council, released, and come home. Ship "George," from Amsterdam, arrived at New York, March 6, via Yarmouth. Was taken by an English cruiser into Yarmouth and there cleared. (Evening Post, March 6.)

2 N. Y. Evening Post, March 24, 1808.
hostages for the action of the United States in its present dilemma.

The Orders in Council of November 11, having been announced in English papers of the 10th, 11th, and 12th, appeared in the Washington “National Intelligencer” of December 18.\footnote{Letter of John Quincy Adams to Harrison Gray Otis.} The general facts were therefore known to the Executive and to the Legislature; and, though not officially adduced, could not but affect consideration, when the President, on December 18, 1807, sent a message to Congress recommending “an inhibition of the departure of our vessels from the ports of the United States.” With his customary exaggerated expression of attendance upon instructions from Congress, he made no further definition of wishes which were completely understood by the party leaders. “The wisdom of Congress will also see the necessity of making every preparation for whatever events may grow out of the present crisis.” Accompanying the message, as documents justificatory of the action to be taken, were four official papers. One was the formal communication to the French Council of Prizes of Napoleon’s decision that goods of English origin were lawful prize on board neutral vessels; the second was the British proclamation directing the impressment of British seamen found on board neutral ships. These two were made public. Secrecy was imposed concerning the others, which were a letter of September 24, from Armstrong to the French Minister of Exterior Relations, and the reply, dated October 7. In this the minister, M. Champagny, affirmed the Emperor’s decision, and added a sentence which, while susceptible of double meaning, certainly covertly suggested that the United States should join in supporting the Berlin Decree. “The decree of blockade has now been issued eleven months. The principal Powers of Europe, far from protesting against its provi-
sions, have adopted them. They have perceived that its execution must be complete to render it more effectual, and it has seemed easy to reconcile these measures with the observance of treaties, especially at a time when the infractions by England of the rights of all maritime Powers render their interests common, and tend to unite them in support of the same cause."\(^1\) This doubtless might be construed as applicable only to the European Powers; but as a foremost contention of Madison and Armstrong had been that the Berlin Decree contravened the treaty between France and the United States, the sentence lent itself readily to the interpretation, placed upon it by the Federalists, that the United States was invited to enforce in her own waters the continental system of exclusion, and so to help bring England to reason.

This the United States immediately proceeded to do. Though the motive differed somewhat, the action was precisely that suggested. On the same day that Jefferson's message was received, the Senate passed an Embargo Bill. This was sent at once to the House, returned with amendments, amendments concurred in, and bill passed and approved December 22. This rapidity of action—a Sunday intervened—shows a purpose already decided in general principle; while the enactment of three supplementary measures, before the adjournment of Congress in April, indicates a precipitancy incompatible with proper weighing of details, and an avoidance of discussion, commendable only on the ground that no otherwise than by the promptest interception could American ships or merchandise be successfully jailed in port. The bill provided for the instant stoppage of all vessels in the ports of the United States, whether cleared or not cleared, if bound to any foreign port. Exception was made only in favor of foreign ships, which of course could not be held. They

\(^1\) American State Papers, Foreign Relations, vol. iii. p. 245. Author's italics.
might depart with cargo already on board, or in ballast. Vessels cleared coastwise were to be deterred from turning foreign by bonds exacted in double the value of ship and cargo. American export and foreign navigation were thus completely stopped; and as the Non-Importation Act at last went into operation on December 14,¹ there was practical exclusion of all British vessels, for none could be expected to enter a port where she could neither land her cargo nor depart.

In communicating the embargo to Pinkney, for the information of the British Government,² Madison was careful to explain, as he had to the British minister at Washington, that it was a measure of precaution only; not to be considered as hostile in character. This was scarcely candid; coercion of Great Britain, to compel the withdrawal of her various maritime measures objectionable to the United States, was at least a silent partner in the scheme, as formulated to the consciousness of Jefferson and his followers.³ The motive transpired, as such motives necessarily do; but, even had it not, the operation of the Act, under the conditions of the European war,

¹ Correspondence of Thomas Barclay, p. 272.
³ “We expected, too, some effect from coercion of interest.” (Jefferson to Armstrong, March 5, 1809. Works, vol. v. p. 433.) “The embargo is the last card we have to play short of war” (Jefferson to Madison, March 11, 1808. Ibid., p. 288.) “The coercive experiment we have made.” (Monroe to John Taylor. Works, vol. v. p. 89.) “I place immense value on the experiment being fully made how far an Embargo may be an effectual weapon in future, as well as on this occasion.” (Jefferson. Works, vol. v. p. 289.) “Bonaparte ought to be particularly satisfied with us, by whose unyielding adherence to principle England has been forced into the revocation of her Orders” (Jefferson to Madison, April 27, 1809. Works, vol. v. p. 442.) This revocation was not actual, but a mistake of the British minister at Washington. “I have always understood that there were two objects contemplated by the Embargo Laws. The first, precautionary; the second, coercive, operating upon the aggressive belligerents, by addressing strong appeals to the interests of both.” (Giles of Virginia, in Senate. Nov. 24, 1808.) “The embargo is not designed to affect our own citizens, but to make an impression in Europe.” (Williams of South Carolina, in House of Representatives, April 14, 1808.)
was so plainly partial between the two belligerents, as to amount virtually to co-operation with Napoleon by the preponderance of injury done to Great Britain. It deprived her of cotton for raw material; of tobacco, which, imported in payment for British manufactures, formed a large element in her commerce with the Continent; of wheat and flour, which to some extent contributed to the support of her people, though in a much less degree than many supposed. It closed to her the American market at the moment that Napoleon and Alexander were actively closing the European; and it shut off from the West Indies American supplies known to be of the greatest importance, and fondly, but mistakenly, believed to be indispensable.

All this was well enough, if national policy required. Great Britain then was scarcely in a position to object seriously to retaliation by a nation thinking itself injured; but to define such a measure as not hostile was an insult to her common-sense. It was certainly hostile in nature, it was believed to be hostile in motive, and it intensified feelings already none too friendly. In France, although included in the embargo, and although her action was one of the reasons alleged for its institution, Napoleon expressed approval. It was injurious to England, and added little to the pressure upon France exerted by the Orders in Council through the British control of the ocean. Senator Smith of Maryland, a large shipping merchant, bore testimony to this. "It has been truly said by an eminent merchant of Salem, that not more than one vessel in eight that sailed for Europe within a short time before the embargo reached its destination. My own experience has taught me the truth of this; and as further proof I have in my hand a list of fifteen vessels which sailed for Europe between September 1 and December 28, 1807. Three arrived; two were captured.
by French and Spaniards; one was seized in Hamburg; and nine carried into England. But for the embargo, ships that would have sailed would have fared as ill, or worse. Not one in twenty would have arrived.” Granting the truth of this anticipation, Great Britain might have claimed that, so far as evident danger was concerned, her blockades over long coast-lines were effective.

The question speedily arose,—If the object of embargo be precaution only, to save our vessels from condemnation under the sweeping edicts of France and Great Britain, and seamen from impressment on American decks, why object to exporting native produce in foreign bottoms, and to commerce across the Canada frontier? If, by keeping our vessels at home, we are to lose the profits upon sixty million dollars’ worth of colonial produce which they have heretofore been carrying, with advantage to the national revenue, why also forbid the export of the forty to fifty million dollars’ worth of domestic produce which foreign ship-owners would gladly take and safely carry? for such foreigners would be chiefly British, and would sail under British convey, subject to small proportionate risk.¹ Why, also, to save seamen from impressment, deprive them of their living, and force them in search of occupation to fly our ports to British, where lower wages and more exposure to the pressgang await them? On the ground of precaution, there was no reply to these questions; unless, perhaps, that with open export of domestic produce the popular suffering would be too unequally distributed, falling almost wholly on New England shipping industries. Logically, however, if the precaution were necessary, the suffering must be accepted; its incidence was a detail only. The embargo was distinctly a hostile measure; and more and more, as people talked,

¹ The writer, in a previous work (Sea Power in the French Revolution), believes himself to have shown that the losses by capture of British traders did not exceed two and one half per cent.
in and out of Congress, was admitted to be simply an alternative for open war.

As such it failed. It entailed most of the miseries of war, without any of its compensations. It could not arouse the popular enthusiasm which elevates, nor command the popular support that strengthens. Hated and despised, it bred elusion, sneaking and demoralizing, and so debased public sentiment with reference to national objects, and individual self-sacrifice to national ends, that the conduct of the many who now evaded it was reproduced, during the War of 1812, in dealings with the enemy which even now may make an American's head hang for shame. Born of the Jeffersonian horror of war, its evil communication corrupted morals among those whose standards were conventional only; for public opinion failed to condemn breaches of embargo, and by a natural declension equally failed soon after to condemn aid to the enemy in an unpopular war. Was it wonderful that an Administration which bade the seamen and the ship-owners of the day to starve, that a foreign state might be injured, and at the same time refused to build national ships to protect them, fell into contempt? that men, so far as they might, simply refused to obey, and wholly departed from respect?

"I have believed, and still do believe," wrote Mr. Adams, "that our internal resources are competent to establish and maintain a naval force, if not fully adequate to the protection and defence of our commerce, at least sufficient to induce a retreat from these hostilities, and to deter from the renewal of them by either of the harrying parties;" in short, to compel peace, the first object of military preparation. "I believed that a system to that effect might be formed, ultimately far more economical, and certainly more energetic than a three years' embargo. I did submit such a proposition to the Senate, and similar attempts had been made in the House of Representatives, but equally dis-
countenanced." ¹ This was precisely the effect of Jefferson’s teaching, which then dominated his party, and controlled both houses. At this critical moment he wrote, “Believing, myself, that gunboats are the only water defence which can be useful to us, and protect us from the ruinous folly of a navy, I am pleased with everything which promises to improve them.” ²

Not thus was a nation to be united, nor foreign governments impressed. The panacea recommended was to abandon the sea; to yield practical submission to the Orders in Council, which forbade American ships to visit the Continent, and to the Decrees of Napoleon, which forbade them entrance to any dominion of Great Britain. By a curious mental process this was actually believed to be resistance. The American nation was to take as its model the farmer who lives on his own produce, sternly independent of his neighbor; whose sons delved, and wife span, all that the family needed. This programme, half sentiment, half philosophy, and not at all practical, or practicable, was the groundwork of Jefferson’s thought. To it co-operated a dislike–approaching detestation for the carrying trade; the very opposite, certainly, of the other ideal. American shipping was then handling sixty million dollars’ worth of foreign produce, and rolling up the wealth which for some reason follows the trader more largely than the agriculturist, who observed with ill-concealed envy. “I trust,” wrote Jefferson, “that the good sense of our country will see that its greatest prosperity depends on a due balance between agriculture, manufactures, and commerce, and not on this protuberant navigation, which has kept us in hot water from the commencement of our government. This drawback system enriches a few individuals, but lessens the stock of native productions, by withdraw-

¹ Letter to Otis.
² To Thomas Paine, concerning an improved gunboat devised by him. Sept. 6, 1807. (Jefferson’s Works, vol. v. p. 189.)
ing all the hands [seamen] thus employed. It is essentially necessary for us to have shipping and seamen enough to carry our surplus products to market, but beyond that I do not think we are bound to give it encouragement by drawbacks or other premiums.” This meant that it was unjust to the rest of the community to allow the merchant to land his cargo, and send it abroad, without paying as much duty as if actually consumed in the country. “This exuberant commerce brings us into collision with other Powers in every sea, and will force us into every war with European Powers.” “It is now engaging us in war.”

Whether for merchant ships or navies the sea was odious to Jefferson’s conception of things. As a convenient medium for sending to market surplus cotton and tobacco, it might be tolerated; but for that ample use of it which had made the greatness of Holland and England, he had only aversion. This prepossession characterized the whole body of men, who willingly stripped the seaman and his employers of all their living, after refusing to provide them with an armed protection to which the resources of the state were equal. Up to the outbreak of the war not a ship was added to the navy. With this feeling, Great Britain, whose very being was maritime, not unnaturally became the object of a dislike so profound as unconsciously to affect action. Napoleon decreed, and embargoed, and sequestered, with little effect upon national sentiment outside of New England. “Certainly all the difficulties and the troubles of the Government during our time proceeded from England,” wrote Jefferson soon after quitting office,² to Dearborn, his Secretary of War. “At least all others were trifling in comparison.” Yet not to speak of the Berlin Decree, by which ships were captured for the mere offence of

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sailing for England, Bonaparte, by the Bayonne Decree, April 17, 1808, nearly a year before Jefferson left office, pronounced the confiscation of all American vessels entering ports under his control, on the ground that under the existing embargo they could not lawfully have left their own country; a matter which was none of his business. Within a year were condemned one hundred and thirty-four ships and cargoes, worth $10,000,000. 2

That Jefferson consciously leaned to France from any regard to Napoleon is incredible; the character and procedures of the French Emperor were repugnant to his deepest convictions; but that there was a still stronger bias against the English form of government, and the pursuit of the sea for which England especially stood, is equally clear. Opposition to England was to him a kind of mission. His best wish for her had been that she might be republicanized by a successful French invasion. 3

"I came into office," he wrote to a political disciple, "under circumstances calculated to generate peculiar acrimony.

1 An American ship putting into England, leaky, reported that on Dec. 18, 1807, she had been boarded by a French privateer, which allowed her to proceed because bound to Holland. The French captain said he had captured four Americans, all sent into passage, in Spain; and that his orders were to bring in all Americans bound to English ports. (N. Y. Evening Post, March 1, 1808.) This was under the Berlin Decree, as that of Milan issued only December 17. The Berlin Decree proclaimed the British Islands under blockade, but Napoleon for a time reserved decision as to the mere act of sailing for them being an infringement. Mr. James Stephen, in Parliament, stated that in 1807 several ships, not less than twenty-one, he thought, were taken for the mere fact of sailing between America and England; in consequence, insurance on American vessels rose 50 per cent, from 2½ to 3½. (Parliamentary Debates, vol. xiii. p. xxxix. App.) In the Evening Post of March 3, 1808, will be found, quoted from a French journal, cases of four vessels carried into France, apparently only because bound to England.


3 “Nothing can establish firmly the republican principles of our government but an establishment of them in England. France will be the apostle for this.” (Jefferson’s Works, vol. iv. p. 192.) “The subjugation of England would be a general calamity. Happily it is impossible. Should invasion end in her being only republicanized, I know not on what principles a true republican of our country could lament it.” (Ibid., p. 217; Feb. 23, 1798.)
I found all the offices in the possession of a political sect, who wished to transform it ultimately into the shape of their darling model, the English government; and in the meantime to familiarize the public mind to the change, by administering it on English principles, and in English forms. The elective interposition of the people had blown all their designs, and they found themselves and their fortresses of power and profit put in a moment in the hand of other trustees.”

These words, written in the third of the fifteen embargo months, reveal an acrimony not wholly one-sided. It was perceived by the parties hardest hit by this essentially Jeffersonian scheme; by the people of New England and of Great Britain. In the old country it intensified bitterness. In the following summer, at a dinner given to representatives of the Spanish revolt against Napoleon, the toast to the President of the United States was received with hisses, and the marks of disapprobation continued till a new subject drew off the attention of the company.

The embargo was not so much a definite cause of complaint, for at worst it was merely a retaliatory measure like the Orders in Council. Enmity was recognized, alike in the council boards and in the social gatherings of the two peoples; the spirit that leads to war was aroused. Nor could this hostile demonstration proceed from sympathy with the Spanish insurgents; for, except so far as might be inferred from the previous general course of the American Administration, there was no reason to believe that they would regard unfavorably the Spanish struggle for liberty. Yet they soon did, and could not but do so.

It is a coincidence too singular to go unnoticed, that the first strong measure of the American Government

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against Great Britain — Embargo — was followed by Napoleon’s reverses in Spain, which, by opening much of that country and of her colonies to trade, at once in large measure relieved Great Britain from the pressure of the Continental system and the embargo; while the second, the last resort of nations, War, was declared shortly before the great Russian catastrophe, which, by rapidly contracting the sphere of the Emperor’s control, both widened the area of British commerce and deprived the United States of a diversion of British effort, upon which calculation had rightly been based. It was impossible for the American Government not to wish well to Napoleon, when for it so much depended upon his success; and to wish him well was of course to wish ill to his opponents, even if fighting for freedom.

Congress adjourned April 25, having completed embargo legislation, as far as could then be seen necessary. On May 2 occurred the rising in Madrid, consequent upon Napoleon’s removal of the Spanish Royal Family; and on July 21 followed the surrender of Dupont’s corps at Baylen. Already, on July 4, the British Government had stopped all hostilities against Spain, and withdrawn the blockade of all Spanish ports, except such as might still be in French control. On August 30, by the Convention of Cintra, Portugal was evacuated by the French, and from that time forward the Peninsula kingdoms, though scourged by war, were in alliance with Great Britain; their ports and those of their colonies open to her trade.

This of itself was a severe blow to the embargo, which for coercive success depended upon the co-operation of the Continental system. It was further thwarted and weakened by extensive popular repudiation in the United States. The political conviction of the expediency, or probable efficacy, of the measure was largely sectional; and it is no serious imputation upon the honesty of its
supporters to say that they mustered most strongly where interests were least immediately affected. Tobacco and cotton suffered less in keeping than flour and salt fish; and the deterioration of these was by no means so instant as the stoppage of a ship’s sailing or loading. The farmer ideal is realizable on a farm; but it was not so for the men whose sole occupation was transporting that which the agriculturist did not need to markets now closed by law. Wherever employment depended upon commerce, distress was immediate. The seamen, improvident by habit, first felt the blow. “I cannot conceive,” said Representative [afterwards Justice] Story, “why gentlemen should wish to paralyze the strength of the nation by keeping back our naval force, and particularly now, when many of our native seamen (and I am sorry to say from my own knowledge I speak it) are starving in our ports.”

The Commandant of the New York Navy Yard undertook to employ, for rations only, not wages, three hundred of those adrift in the streets; the corporation of the city undertaking to pay for the food issued. They moved off, as they could get opportunity, towards the British Provinces; and thus many got into the British service, by enlistment or impressment. “Had your frigate arrived here instead of the Chesapeake,” wrote the British Consul General at New York, as early as February 15, 1808, “I have no doubt two or three hundred able British seamen would have entered on board her for his Majesty’s service; and even now, was your station removed to this city, I feel confident, provided the embargo continues, you would more than complete your complement.” Six months later, “Is it not notorious that not a seaport in the United States can produce seamen enough to man three merchant ships?”

1 Annals of Congress, 1808-09, p. 1032
3 Thomas Barclay’s Correspondence, p. 274. Author’s italics
4 N. Y. Evening Post, Sept. 1, 1808.
In moving the estimates for one hundred and thirty thousand seamen a year later (February, 1809), the Secretary of the Admiralty observed that Parliament would learn with satisfaction that the number of seamen now serving in the navy covered, if it did not exceed, the number here voted.\textsuperscript{1} It had not been so once. Sir William Parker, an active frigate captain during ten years of this period, wrote in 1805, “I dread the discharge of our crew; for I do not think the miserable wretches with which the ships lately fitted out were manned are equal to fight their ships in the manner they are expected to do.”\textsuperscript{2} The high wages, which the profits of the American merchant service enabled it to pay, outbade all competition by the British navy. “Dollars for shillings,” as the expression ran. The embargo stopped all this, and equivalent conditions did not return before the war. The American Minister to France in 1811 wrote: “We complain with justice of the English practice of pressing our seamen into their service. But the fact is, and there is no harm in saying it, there are at present more American seamen who seek that service than are forced into it.”\textsuperscript{3}

After the seamen followed the associated employments; those whose daily labor was expended in occupations connected with transportation, or who produced objects which men could not eat, or with which they could dispense. Before the end of the year testimony came from every quarter of the increase of suffering among the deserving poor; and not they only, but those somewhat above them as gainers of a comfortable living. They were for the most part helpless, except as helped by their richer neighbors. Work for them there was not, and they could not rebel. Not so with the seafarers, or the dwellers upon the fron-

\textsuperscript{1} Cobbett’s Parliamentary Debates, vol. xii. p. 326.
\textsuperscript{2} Life of Sir William Parker, vol. i. p. 304.
\textsuperscript{3} Barlow to Bassano, Nov. 10, 1811. U. S. State Department MSS.
tiers. On the great scale, of course, a sure enforcement of the embargo was possible; the bulk of the shipping, especially the bigger, was corralled and idle. In the port of New York, February 17, 1808, lay 161 ships, 121 brigs, and 98 smaller sea-going vessels; in all 380 unoccupied, of which only 11 were foreign. In the much smaller port of Savannah, at this early period there were 50. In Philadelphia, a year later, 293, mostly of large tonnage for the period. "What is that huge forest of dry trees that spreads itself before the town?" asked a Boston journal. "You behold the masts of ships thrown out of employment by the embargo."1 "Our dismantled, ark-roofed vessels are indeed decaying in safety at our wharves, forming a suitable monument to the memory of our departed commerce. But where are your seamen? Gone, sir! Driven into foreign exile in search of subsistence."2 Yet not all; for illicit employment, for evading the Acts, enough remained to disconcert the Government, alike by their numbers and the boldness of their movements.

"This Embargo law," wrote Jefferson to Gallatin, August 11, 1808, "is certainly the most embarrassing we ever had to execute. I did not expect a crop of so sudden and rank growth of fraud, and open opposition by force, could have grown up within the United States."3 Apostle of pure democracy as he was, he had forgotten to reckon with the people, and had mistaken the convictions of himself and a coterie for national sentiment. From all parts of the country men began silently and covertly to undermine the working of the system. Passamaquoddy Bay on the borders of New Brunswick, and St. Mary's on the confines of Florida, remote from ordinary commerce,

1 N. Y. Evening Post, Feb. 18, June 30, 1808; Feb. 24, 1809.
became suddenly crowded with vessels.\textsuperscript{1} Coasters, not from recalcitrant New England only, but from the Chesapeake and Southern waters, found it impossible to reach their ports of destination. Furious gales of wind drove them from their course; spars smitten with decay went overboard; butts of planking started, causing dangerous leaks. Safety could be found only by bearing up for some friendly foreign port, in Nova Scotia or the West Indies, where cargoes of flour and fish had to be sold for needed repairs, to enable the homeward voyage to be made. Not infrequently the vessel's name had been washed off the stern by the violence of the waves, and the captain could remember neither it nor his own. The New York and Vermont frontiers became the scene of widespread illegal trade, the shameful effects of which upon the patriotism of the inhabitants were conspicuous in the following war. A gentleman returning from Canada in January, 1809, reported that he had counted seven hundred sleighs, going and returning between Montreal and Vermont.\textsuperscript{2} This on one line only. A letter received in New York stated that, during the embargo year, 1808, thirty thousand barrels of potash had been brought into Quebec.\textsuperscript{3} "While our gunboats and cutters are watching the harbors and sounds of the Atlantic," said a senator from his place, "a strange inversion of business ensues, and by a retrograde motion of all the interior machinery of the country, potash and lumber are launched upon the lakes, and Ontario and Champlain feel the bustle of illicit traffic. . . . Violators of the laws are making fortunes, while the conscientious observers of them are suffering sad privations."\textsuperscript{4}

\textsuperscript{1} "Trinidad, July 1, 1808. We have just received 15,000 barrels of flour from Passamaquoddy, and not a week passes but some drops in from Philadelphia, Norfolk, etc. Cargo of 1,000 barrels would not now command more than twelve dollars; a year ago, eighteen." (N. Y. Evening Post, July 23.)

\textsuperscript{2} N. Y. Evening Post, Jan. 17, 1809.

\textsuperscript{3} Ibid., February 6.

Not the conscientious only, but the unlucky. Unlike New York, North Carolina had not a friendly foreign boundary near to her naval stores.

Under these circumstances the blow glanced from the British dominions. At the first announcement of the embargo, prices of provisions and lumber rose heavy in the West Indies; but reaction set in, as the leaks in the dam became manifest and copious. The British Government fostered the rebellious evasions of American citizens by a proclamation, issued April 11, directing commanders of cruisers not to interrupt any neutral vessel laden with provisions or lumber, going to the West Indies; no matter to whom the property belonged, nor whether the vessel had any clearance, or papers of any kind. A principal method of eluding the embargo, Gallatin informed Jefferson, was by loading secretly and going off without clearing. "Evasions are chiefly effected by vessels going coastwise." 1 The two methods were not incompatible. Besides the sea-going vessels already mentioned as lying in New York alone, there were there over four hundred coasters. It was impossible to watch so many. The ridiculous gunboats, identified with this Administration, derisively nicknamed "Jeffs" 2 by the unbelieving, were called into service to arrest the evil; but neither their numbers nor their qualities fitted them to cope with the ubiquity and speed of their nimble opponents. "The larger part of our gunboats," wrote Commodore Shaw 3 from New Orleans, "are well known to be dull sailors."

"For enforcing the embargo," said Secretary Gallatin, "gunboats are better calculated as a stationary force, and for the purpose of stopping vessels in certain places, than for pursuit." 4 A double bond was a mockery, when in

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2 N. Y. Evening Post, Aug. 31, 1808.
3 Feb. 17, 1812. Captains' Letters, U. S. Navy Department MSS.
West Indian ports the cargo was worth from four to eight times what it was at the place of loading. These were the palmer days of the embargo breakers; the ease and frequency with which they escaped soon brought prices down. Randolph, in the House, asserted that in the first four months of embargo one hundred thousand barrels of flour had been shipped from Baltimore alone; and the West India planters, besides opening new sources of supply, devoted part of their ground to raising food. They thus turned farmer, after the Jefferson ideal, supporting themselves off their own grounds; an economical error, for sugar was their better crop, but unavoidable in the circumstances. With all this, the difficulty in the way of exportation so cheapened articles in the United States as to maintain a considerable disproportion in prices there and abroad, which kept alive the spirit of speculation, and maintained the opportunity of large profits, at the same time that it distressed the American grower.

Upon the whole, after making allowance for the booms which succeeded the first fright in the West Indies, the indications seem to be that they escaped much better than had been expected, either by themselves or by the American Government. Just before adjourning, Congress had passed a supplementary measure, which, besides drawing restrictions tighter, authorized the President to license vessels to go abroad in ballast, in order to bring home property belonging to American citizens. These dispersed in various directions, and in very large numbers. Many doubtless remained away; but those which returned brought constant confirmation of the numerous American

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1 With flour varying at short intervals from $30 to $18, and $12, a barrel. It is evident that speculation must be rife, and also that only general statements can be made as to conditions over any length of time.

2 Orchard Cook, of Massachusetts, said in the House of Representatives that 590 vessels sailed thus by permission. Annals of Congress, 1808-09, p. 1250.
shipping in the various ports of the West Indies, and the
general abundance of American produce. A letter from
Havana, September 12, said: “We have nearly one hun-
dred American vessels in port. Three weeks ago there
were but four or five. If the property, for which these
vessels were ostensibly despatched, had been really here,
why have they been so long delayed? The truth is, the
property is not here. A host of people have been let
loose, who could not possibly have had any other motive
than procuring freight and passengers from merchants of
this country, or from the French, who are supposed to be
going off with their property [in consequence of the
Spanish outbreak]. The vast number of evasions and
smugglers which the embargo has created is surprising.
For some days after the last influx of American vessels,
the quays and custom-house were every morning covered
with all kinds of provisions, which had been landed dur-
ing the preceding night.”

To Quebec and Halifax the embargo was a positive
boon, from the diversion upon them of smuggling enter-
prise, by the lakes and by land, or by coasters too small to
make the direct voyage to the West Indies. In conse-
quence of the embargo, these towns became an entrepôt of
commerce, such as the Orders in Council were designed
to make the British Islands. There was, of course, a re-
turn trade, through them, of British manufactures smug-
gled into the United States. These imports seem to have
exceeded the exports by the same route. A New Bedford
town meeting, in August, affirmed that gold was already
at a premium, from the facility with which it was trans-
ported through the country, and across the frontier, in
payment of purchases. At the end of the summer one
hundred and fifty vessels were despatched from Quebec
with full cargoes, and it may be believed they had not

arrived empty. “From a Canada price current now before us, it will be seen that since the embargo was laid the single port of Quebec has done more foreign business than the whole United States. In less than eleven months there cleared thence three hundred and thirty-four vessels.”

An American merchant visiting Halifax wrote home: “Our embargo is an excellent thing for this place. Every inhabitant of Nova Scotia is exceedingly desirous of its continuance, as it will be the making of their fortunes.” Independent of the entrepôt profit, the British provinces themselves produced several of the articles which figured largely among the exports of the middle and eastern states; not to the extent imagined by Sheffield, sufficient to supply the West Indies, but, in the artificial scarcity caused by the embargo, the enhanced prices redounded directly to their advantage. Sir George Prevost, governor of Nova Scotia, summed up the experience of the year by saying that “the embargo has totally failed. New sources have been resorted to with success to supply deficiencies produced by so sudden an interruption of commerce, and the vast increase of export and import of this province proves that the embargo is a measure well adapted to promote the true interests of his Majesty’s American colonies.”

Upon the British Islands themselves the injury was more appreciable and conspicuous. It was, moreover, in the direction expected by Jefferson and his supporters. The supply of cotton nearly ceased. Mr. Bar- ing, March 6, 1809, said in the House of Commons that raw material had become so scarce and so high, that in many places it could not be procured. “In Manchester during the greatest part of the past year, only nine cotton mills were in full employment; about thirty-one at half

1 N. Y. Evening Post, Feb. 28, 1809.
2 Ibid., Sept. 21, 1808.
3 Ibid., Dec. 8, 1808.
work, and forty-four without any at all."\(^1\) Flaxseed, essential to the Irish linen manufactures, and of which three fourths came from America, had risen from £2\(\frac{1}{2}\) to £23 the quarter.\(^2\) The exports for the year 1808 had fallen fifteen per cent; the imports the same amount, involving a total diminution in trade of £14,000,000. An increase of distress was manifested in the poor rates. In Manchester they had risen from £24,000 to £49,000. On the other hand, the harvest for the year, contrary to first anticipation, had been very good; and, in part compensation for intercourse with the United States, there was the opening of Spain, Portugal, and their extensive colonies, the effect of which was scarcely yet fully felt.

There was, besides, the relief of American competition in the carrying trade. This was a singularly noteworthy effect of the embargo; for this industry was particularly adverse to United States navigation, and particularly benefited by the locking up of American shipping. On April 28, 1808, there was not in Liverpool a vessel from Boston or New York.\(^3\) The year before, four hundred and eighty-nine had entered, paying a tonnage duty of £36,960.\(^4\) In Bristol at the same time there were only ten Americans. In consequence of the loss of so much tonnage, "those who have anything to do with vessels for freight or charter are absolutely insolent in their demands. For a ship of 330 tons from this to St. Petersburg and back £3,300 have been paid; £2,000 for a ship of 199 tons to Lisbon and back."\(^5\)\(^6\) At the end of August, in Liverpool, the value of British shipping had increased rapidly, and vessels which had long been laid up found profitable employment at enormous freights.\(^5\)

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\(^1\) Cobbett's Parliamentary Debates, vol. xii. p. 1194.
\(^2\) Lord Grenville in House of Lords. Ibid., p. 786.
\(^3\) N. Y. Evening Post, June 28, 1808.
\(^4\) Ibid., April 8.
\(^5\) Ibid., June 28.
\(^6\) Ibid., October 27. The same effect, though on a much smaller scale, was seen in France. Deprived, through the joint operation of the embargo and