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FOR THE GAZETTE

HELVIDIUS—No. IV.

THE last papers completed the view proposed to be taken of the arguments in support of the new and aspiring doctrine, which ascribes to the executive the prerogative of judging and deciding whether there be causes of war or not, in the obligations of treaties; notwithstanding the express provision in the constitution, by which the legislature is made the organ of the national will, on questions whether there be or be not a cause for declaring war. If the answer to these arguments has imparted the conviction which dictated it, the reader will have pronounced, that they are generally superficial, abounding in contradictions, never in the least degree conclusive to the main point, and not unfrequently conclusive against the writer himself: whilst the doctrine—that the powers of treaty and war, are in their nature executive powers—which forms the basis of those arguments, is as indefensible and as dangerous, as the particular doctrine to which they are applied.

But it is not to be forgotten that these doctrines, though ever so clearly disproved, or ever so weakly defended, remain before the public a striking monument of the principles and views which are entertained and propagated in the community.

It is also to be remembered, that however the consequences flowing from such premises, may be disavowed at this time or by this individual, we are to regard it as morally certain, that in proportion as the doctrines make their way into the creed of the government, and the acquiescence of the public, every power that can be deduced from them, will be deduced and exercised sooner or later by those who may have an interest in so doing. The character of human nature gives this salutary warning to every sober and reflecting mind. And the history of government, in all its forms and in every period of time, ratifies the danger. A people therefore, who are so happy as to possess the inestimable blessing of a free and defined constitution, cannot be too watchful against the introduction, nor too critical in tracing the consequences, of new principles and new constructions, that may remove the landmarks of power.

Should the prerogative which has been examined, be allowed in its most limited sense, to usurp the public countenance, the interval would probably be very short, before it would be heard from some quarter or other, that the prerogative either amounts to nothing, or means a right to judge and conclude that the obligations of treaty impose war, as well as that they permit peace. That it is fair reasoning, to say, that if the prerogative exists at all, an operative rather than an inert character ought to be given to it.

In support of this conclusion, there would be enough to echo, "that the prerogative in this active sense, is connected with the executive in various capacities—as the organ of intercourse between the nation and foreign nations—as the interpreter of national treaties" (a violation of which may be a cause of war) "as that power which is charged with the execution of the laws of which treaties make a part—as that power, which is charged with the command and application of the public force."

With additional force, it might be said, that the executive is as much the executor as the interpreter of treaties: that if by virtue of the first character it is to judge of the obligations of treaties, it is by virtue of the second, equally authorized to carry those obligations into effect. Should there occur for example, a *casus federis*, claiming a military co-operation of the United States, and a military force should happen to be under the command of the executive, it must have the same right, as executor of public treaties to employ the public force, as it has in quality of interpreter of public treaties to decide whether it ought to be employed.

The case of a treaty of peace would be an auxiliary to comments of this sort. It is a condition annexed to every treaty that an infraction even of an important article, on one side extinguishes the obligations on the other: and the immediate consequence of a dissolution of a treaty of peace is a restoration of a state of war. If the executive is "to decide on the obligation of the nation with regard to foreign nations"—"to pronounce the existing condition (in the sense annexed by the writer) of the nation with regard to them; and to admonish the citizens of their obligations and duties as founded upon that condition of things"—"to judge what are the reciprocal rights and obligations of the United States, and of all and each of the powers at war"—add, that if the executive moreover possesses all powers relating to war not strictly within the power to declare war, which any pupil of political casuistry, could distinguish from a mere *relapse* into a war, that had been declared: With this store of materials and the example given of the use to be made of them, would it be difficult to fabricate a power in the executive to plunge the nation into war,

whenever a treaty of peace might happen to be infringed?

But if any difficulty should arise, there is another mode chalked out by which the end might clearly be brought about, even without the violation of the treaty of peace; especially if the other party should happen to change its government at the crisis. The executive, in that case, could suspend the treaty of peace by refusing to receive an ambassador from the new government, and the state of war emerges of course.

This is a sample of the use to which the extraordinary publication we are reviewing, might be turned. Some of the inferences could not be repelled at all. And the least regular of them must go smoothly down with those, who had swallowed the gross sophistry which wrapped up the original dose.

Every just view that can be taken of this subject, admonishes the public, of the necessity of a rigid adherence to the simple, the received and the fundamental doctrine of the constitution, that the power to declare war including the power of judging of the causes of war is *fully and exclusively* vested in the legislature: that the executive has no right, in any case to decide the question, whether there is or is not cause for declaring war: that the right of convening and informing Congress, whenever such a question seems to call for a decision, is all the right which the constitution has deemed requisite or proper; and that for such more than for any other contingency, this right was specially given to the executive.

In no part of the constitution is more wisdom to be found than in the clause which confides the question of war or peace to the legislature, and not to the executive department. Beside the objection to such a mixture of heterogeneous powers: the trust and the temptation would be too great for any one man: not such as nature may offer as the prodigy of many centuries, but such as may be expected in the ordinary successions of magistracy. War is in fact the true nurse of executive aggrandizement. In war a physical force is to be created, and it is the executive will which is to direct it. In war the public treasures are to be unlocked, and it is the executive hand which is to dispense them. In war the honors and emoluments of office are to be multiplied; and it is the executive patronage under which they are to be enjoyed. It is in war, finally, that laurels are to be gathered, and it is the executive brow they are to encircle. The fit onsets passions, and most dangerous weaknesses of the human breast; ambition, avarice, vanity, the honorable or venial love of fame, are all in conspiracy against the desire and duty of peace.

Hence it has grown into an axiom that the executive is the department of power most distinguished by its propensity to war: hence it is the practice of all states, in proportion as they are free, to disarm this propensity of its influence.

As the best praise then that can be pronounced on an executive magistrate, is, that he is the friend of peace; a praise that rises in its value, as there may be a known capacity to shine in war: so it must be one of the most sacred duties of a free people, to mark the first omen in the society, of principles that may stimulate the hopes of other magistrates of another propensity, to intrude into questions on which its gratification depends. If a free people be a wise people also, they will not forget that the danger of surprise can never be so great, as when the advocates for the prerogative of war, can theathe it in a symbol of peace.

The constitution has manifested a similar prudence in refusing to the executive the sole power of making peace. The trust in this instance also, would be too great for the wisdom, and the temptations too strong for the virtue, of a single citizen. The principal reasons on which the constitution proceeded in its regulation of the power of treaties, including treaties of peace, are so aptly furnished by the work already quoted more than once, that I shall borrow another comment from that source.

"However proper or safe it may be in a government where the executive magistrate is an hereditary monarch to commit to him the entire power of making treaties, it would be utterly unsafe and improper to entrust that power to an elective magistrate of four years duration. It has been remarked upon another occasion, and the remark is unquestionably just, that an hereditary monarch, though often the oppressor of his people, has personally too much at stake in the government to be in any material danger of being corrupted by foreign powers. But that a man raised from the station of a private citizen to the rank of chief magistrate, possessed of but a moderate or slender fortune, and looking forward to a period not very remote, when he may probably be obliged to return to the station from which he was taken, might sometimes be under temptations to sacrifice his duty to his interest, which it would require superlative virtue to withstand. An avaricious man might be tempted to betray the interests of

the state to the acquisition of wealth. An ambitious man might make his own aggrandizement, by the aid of a foreign power, the price of his treachery to his constituents.—The history of human conduct does not warrant that exalted opinion of human virtue, which would make it wise in a nation, to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate, created and circumstanced, as would be a President of the United States."

I shall conclude this paper and this branch of the subject, with two reflections, which naturally arise from this view of the Constitution. The first is, that as the personal interest of an hereditary monarch in the government, is the only security against the temptation incident to a commitment of the delicate and momentous interests of the nation which concern its intercourse with the rest of the world, to the disposal of a single magistrate, it is a plain consequence, that every addition that may be made to the sole agency and influence of the Executive, in the intercourse of the nation with foreign nations, is an increase of the dangerous temptation to which an *elective and temporary* magistrate is exposed; and an argument and advance towards the security afforded by the personal interests of an hereditary magistrate.

Secondly, As the constitution has not permitted the Executive singly to conclude or judge that peace ought to be made, it might be inferred from that circumstance alone, that it never meant to give it authority, singly, to judge and conclude that war ought not to be made. The trust would be precisely similar and equivalent in the two cases. The right to say that war ought not to go on, would be no greater than the right to say that war ought to begin. Every danger of error or corruption, incident to such a prerogative in one case, is incident to it in the other. If the Constitution therefore has deemed it unsafe or improper in the one case, it must be deemed equally so in the other case.

HELVIDIUS.

United States.

PROCEEDINGS relative to the PRESIDENT'S PROCLAMATION of NEUTRALITY.

DUXBURY (Massachusetts)

AT a meeting of the inhabitants of the town of Duxbury, on Monday the 19th inst. a letter containing the doings of the merchants and others concerned in trade, residing in the town of Boston, was read, and also the Proclamation of the President of the United States, of the 22d of April last; and upon considering the same it was unanimously

Voted, That the said Proclamation of the President appears to us founded in wisdom, justice, and good policy; and calculated to promote the peace, interest, and happiness of our country.

Voted, That we will exert ourselves to expose to public view, and bring to legal punishment, all those who may pursue measures calculated to disturb the public tranquillity, or contravene those impartial principles of neutrality and good faith, towards the European nations at war, which it is both the interest and duty of the citizens of these United States to maintain inviolate.

Voted, That the Moderator of this meeting be requested to transmit a copy of the above votes to the Hon. Thomas Russell, Esq. President of the meeting of the merchants and others of the town of Boston, and to assure him that we received the communication of the doings of their meeting with satisfaction; and that we will most cheerfully unite with them in carrying the object of them into full and complete execution.

By order of the said meeting,
JAMES BRADFORD, Moderator.
August 20th, 1793.

GLOUCESTER (Mass.)

AT a meeting of the merchants and others, inhabitants of the town of Gloucester, in consequence of a circular letter from the merchants

and traders of the town of Boston, respecting the President's late Proclamation.—

DANIEL ROGERS, Esq. President.

Voted, That we consider the President's late Proclamation as the most salutary step that could have been adopted to secure the neutrality of the United States, during the present European contest; and preserve inviolate those sacred National Rights which are the grand basis of good government.

Voted, That we will exert our utmost endeavors to prevent a breach of such neutrality, and to bring to legal punishment the perpetrators of such breach, whose temerity shall tempt them to the commission of such conduct.

Voted, That we feel ourselves peculiarly interested in the support of the President's Proclamation, not only as citizens of the United States, but from our local situation, as thereby it tends to the establishment and protection of one of the grand staples of this Commonwealth, the Fishery of Massachusetts.

Voted, That a copy of the proceedings of this meeting be transmitted to Mr. Benjamin Russell, Editor of the Columbian Centinel, and request their publication.

A true copy from the Records,
JOHN G. ROGERS, Sec'y.
Gloucester, August 28, 1793.

PORTSMOUTH (New-Hamp.)

Agreeable to notification, for the purpose of considering of the President's Proclamation—declaring these United States neutral, in the present European war, the inhabitants of this town assembled, on the 28th ult. and passed the following resolutions:

Voted, That the inhabitants of this town do heartily approve of the Proclamation of the President of the Supreme Executive of the United States, warning all persons to refrain from violating the law of nations, and declaring the neutrality of the United States, and their disposition to observe a conduct friendly and impartial towards all the belligerent Powers.

2d. That in our opinion the President of the United States in issuing his Proclamation has acted in strict conformity to the nature and duties of his office, as the Executor of the Laws and Guardian of the Public Welfare, and thereby rendered essential service to the Public in general, and most seasonable relief to the Mercantile interest at a time when it was doubted in foreign ports whether our shipping would remain neutral or not.

3d. That we are determined to assist to the utmost of our ability the Government in maintaining the Neutrality and Peace of the United States, and will use our best endeavors to detect and bring to Justice all persons who by their acts and proceedings shall violate the Law of Nations, and endanger the Peace and Welfare of the Union.

4th. That we rely on the support and energy of the government of the United States, that our Navigation shall be freed from the present depredations and insults committed by the Powers at War—and that just compensation shall be made to those who have suffered by such unwarrantable conduct.

G. WENTWORTH, Town-Clerk.

CHESTERTOWN (Maryland)

At a meeting of the citizens of Kent county, in the State of Maryland, convened at the court house in this town, on the 31st day of August, for the purpose of declaring their sentiments relative to the Pro-