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CONDITIONS.

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CONGRESS.

Debate on the Direct Tax.

SPEECH OF MR. CLAY.

Mr. CLAY. (Speaker) said, the course had been pursued, ever since he had the honor of a seat on this floor, to select some subject during the early part of the session, on which, by a general understanding gentlemen were allowed to indulge themselves in remarks on the existing state of public affairs. The practice was a very good one, he said, and there could be no occasion more proper than that of a proposition to lay a Direct Tax.

Those who have for fifteen years past administered the affairs of this government, have conducted this nation to an honorable point of elevation, at which they may justly pause, challenge a retrospect, and invite attention to the bright field of prosperity which lies before us.

The great objects of the committee of finance, in the report under consideration, are in the first place, to provide for the payment of the public debts, and in the second, to provide for the support of the government, and the payment of such expenses as should be authorized by Congress. The greater part of the debt Mr. C. admitted had grown out of the late war; yet a considerable portion of it consisted of that contracted in the former war for independence, and a portion of it perhaps of that which arose out of the wars with Tripoli and Algiers. Gentlemen had on this occasion therefore fairly a right to examine into the course of administration heretofore, to demonstrate the impolicy of those wars, and the injudiciousness of the public expenditure generally. In the cursory view which he should take of the subject, he must be allowed to say he should pay no particular attention to what had passed before in debate.—An honorable colleague (Mr. Hardin) who spoke the other day, like another gentleman who preceded him in debate had taken occasion to refer to his (Mr. C.) late absence from this country on public business; but he trusted among the fruits of that absence were a greater respect for the Institutions which distinguish this happy country, a greater confidence in them, and an increased disposition to cling to them. Yes, sir, said Mr. C. I was in the neighborhood of the battle of Waterloo, and some lessons I did derive from it; but they were lessons which satisfied me that national independence was only to be maintained by national resistance against foreign encroachments; by cherishing the interest of the people, and giving to the whole physical power of the country an interest in the preservation of the nation. I have been taught that lesson; that we should never lose sight of the possibility, that a combination of despots of men unfriendly to liberty, propagating what in their opinion constitutes the principle of legitimacy, might reach our happy land, and subject us to that tyranny and degradation which seems to be one of their objects in another country. The result of my reflections is, the determination to aid with my vote in providing my country with all the means to protect its liberties, and guard them even from serious menace. Motives of delicacy, which the committee would be able to understand and appreciate, prevented him from noticing some of his colleague's (Mr. Hardin's) remarks; but he would take the occasion to give him one admonition, that when he next favored the house with an exhibition of his talent for wit—with a display of those elegant implements, for his possession of which, the gentleman from Virginia had so handsomely complimented him, that he would recollect that it is bought, & not borrowed wit, which the adage recommends as best. With regard to the late war with Great Britain, history, in deciding upon the justice and policy of that war, will determine the question according to the state of things which existed when that war was de-

clared. I gave a vote for the declaration of war, said Mr. C.—I exerted all the little influence and talents I could command to make the war. The war was made; it is terminated; and I declare, with perfect sincerity, if it had been permitted me to lift the veil of futurity, and to have foreseen the precise series of events which has occurred, my vote would have been unchanged. The policy of the war, as it regarded our state of preparation, must be determined with reference to the state of things at the time that war was declared. Mr. C. said, he need not take up the time of the house in demonstrating that we had cause sufficient for war. We had been insulted and outraged, and spoiled upon by almost all Europe, by Great Britain, by France, Spain, Denmark, Naples, and to cap the climax, by the little contemptible power of Algiers. We had submitted too long and too much. We had become the scorn of foreign powers, and the contempt of our own citizens. The question of the policy of declaring war at the particular time when it was commenced, is best determined, Mr. C. remarked, by applying to the enemy himself; and what said he? that of all the circumstances attending its declaration, none was so aggravating, as that we should have selected the moment which of all others was most inconvenient to him; when he was struggling for self-existence in a last effort against the gigantic power of France. The question of the state of preparation for war at any time is a relative question—relative to our own means, the condition of the other power, and the state of the world at the time of declaring it. We could not expect; for instance, that a war against Algiers would require the same means or extent of preparation as a war against Great Britain; and, if it was to be waged against one of the primary powers of Europe, at peace with all the rest of the world, and therefore all her force at command, it could not be commenced with so little preparation as if her whole force was employed in another quarter. It is not necessary again to repeat, said Mr. C. the story of the ridiculous, false story of French influence, originating in Great Britain and echoed here, I now contend, as I have always done, that we had a right to take advantage of the condition of the world at the time war was declared. If Great Britain were engaged in war, we had a right to act on the knowledge of the fact, that her means of annoyance as to us, were diminished; and we had a right to obtain all the collateral aid we could from the operations of other powers against her, without entering into those connections which are forbidden by the genius of our government. But Mr. C. said, it was rather like disturbing the ashes of the dead now to discuss the questions of the justice or expediency of the war. They were questions long since settled, and on which the public opinion was decisively made up in favor of the administration.

He proceeded to examine the conditions of the peace and the fruits of the war; questions of more recent date, and more immediately applicable to the present discussion.—The terms of the peace, Mr. C. said, must be determined by the same rule that was applicable to the declaration of war—that rule which was furnished by the state of the world at the time the peace was made; & even if it were true that all the sanguine expectations which might have been formed at the time of the declaration of war were not realized by the terms of the subsequent peace, it did not follow that the war was improperly declared, or the peace dishonorable, unless the condition of the parties in relation to other powers remained substantially the same throughout the struggle, and at the time of the termination of the war, as they were at the commencement of it. At the termination of the war, France was annihilated, blotted out of the map of Europe; the vast power wielded by Bonaparte existed no longer. Let it be admitted that statesmen, in laying their course, are to look at probable events, that their conduct is to be examined with reference to the course of events which in all human probability might have been anticipated—and is the man in this house, in existence, who can say that on the 18th day of June, 1812, when the war was declared, it would have been anticipated that Great Britain would by the circumstance of a general peace, resulting from the overthrow of a power whose basements were supposed to be deeper laid, more ramified and more extended than those of any power ever were before—be placed in the attitude in which she stood in December, 1814? Would any one say that this government could have anticipated such a state of

things, and ought to have been governed in its conduct accordingly? Great Britain, Russia, Germany, did not expect—not a power in all Europe believed, as late even as January 1814, that, in the ensuing March, Bonaparte would abdicate and the restoration of the Bourbons would follow. What was the actual condition of Europe when peace was concluded? A perfect tranquility reigned throughout; for, as late as the first of March, the idea of Napoleon re-appearing in France, was as little entertained, as that of a man's coming from the moon to take upon himself the government of the country. In December 1814, a profound and apparently a permanent peace existed; Great Britain was left to dispose of the vast force, the accumulation of twenty-five years, the work of an immense system of finance and protracted war—she was at liberty to employ that undivided force against this country. Under such circumstances it did not follow, Mr. C. said, according to the rules laid down, either that the war ought not to have been made, or that peace on such terms ought not to have been concluded.

What then, Mr. C. asked, were the terms of the peace? The regular opposition in this country—the gentlemen on the other side of the house, had not come out to challenge an investigation of the terms of the peace, although they had several times given a side-wipe at the treaty on occasions which it had no necessary connection, it had been some times said that we had gained nothing by the war, that the fisheries were lost, &c. How, he asked, did this question of the fisheries really stand? By the first part of the third article of the treaty of 1783, the right was recognized in the people of the U. States to take fish of every kind on the Grand Bank and on all the other banks of Newfoundland; also in the gulf of St. Lawrence, and at all other places in the sea, where the inhabitants of both countries used at any time to fish.—This right was a necessary incident to our sovereignty, although it is denied to some of the powers of Europe. It was not contested at Ghent; it has never been drawn in question by Great Britain. But by the same third article it was further stipulated, that the inhabitants of the U. States shall have "liberty to take fish of every kind on such part of the coast of Newfoundland as British fishermen shall use (but not to dry or cure the same on that island,) and also on the coasts, bays and creeks of all other of his Britannic majesty's dominions in America; and that the American fishermen shall have liberty to dry and cure fish in any of the unsettled bays, harbors and creeks of Nova Scotia, Magdalen Islands and Labrador, so long as the same shall remain unsettled; but so soon as the same or either of them shall be settled, it shall not be lawful for the said fishermen to dry or cure fish at such settlement, without a previous agreement for that purpose with the inhabitants, proprietors or possessors of the ground." The British commissioners, assuming that these liberties had expired by the war between the two countries, at an early period of the negotiation declared that they would not be revived without an equivalent. Whether the treaty of 1783 does not form an exception to the general rule, according to which treaties are vacated by a war breaking out between the parties, is a question on which he did not mean to express an opinion. The first article of that treaty, by which the king of Great Britain acknowledges the sovereignty of the U. States, certainly was not abrogated by the war; that all the other parts of the same instrument, define the limits, privileges and liberties attaching to sovereignty were equally unaffected by the war, might be contended for with at least much plausibility. If we determined to offer them the equivalent required, the question was, what should it be? When the British commissioners demanded, in their project, a renewal to Great Britain of the right to the navigation of the Mississippi, secured by the treaty of 1783, a bare majority of the American commissioners offered to renew it, upon the condition that the liberties in question were renewed to us. He was not one of the majority. He would not trouble the committee with his reasons for being opposed to the offer. A majority of his colleagues, actuated he believed by the best motives, made however the offer and it was refused by the British commissioners.

If the British interpretation of the treaty of 1783 be correct, we have lost the liberties in question.—What the value of them really is, he had not been able to meet with any two gentlemen who agreed. The great value of the whole mass of fishery interests, as connected with

our navigation and trade, was sufficiently demonstrated by the tonnage employed; but what was the relative importance of these liberties, there was great contrariety of statements. They were liberties to be exercised within a foreign jurisdiction, and some of them were liable to be destroyed by the contingency of settlement. He did not believe that much importance attached to those liberties. And supposing them to be lost, we are perhaps sufficiently indemnified by the redemption of the British mortgage upon the navigation of the Mississippi. This great stream, on that supposition is placed where it ought to be, in the independent condition with the Hudson or any other river in the United States.

If on the contrary, the opposite construction of the treaty of 1783 be the true one, the liberties remain us, and the right to the navigation of the Mississippi, as secured to Great Britain by that instrument, continues with her.

But, Mr. C. said he was surprised to hear a gentleman from the western country (Mr. Hardin) exclaim that we had gained nothing by the war. G. Britain acquired, by the treaty negotiated by Mr. Jay the right to trade with the Indians within our territories. It was a right upon which she placed great value, and from the pursuit of which she did not desist without great reluctance. It had been exercised by her agents in a manner to excite the greatest sensibility in the western country. This right was clearly lost by the war; for whatever may be the true opinion as to the treaty of 1783, there can be no doubt that the stipulations of 1794 no longer exist.

It had been said that the great object, in the continuation of the war, had been to secure our mariners against impressment, and that peace was made without accomplishing it. With regard to the opposition, he presumed, they would not urge any such argument. For if their opinion was to be inferred (though he hoped in this case it was not) from that of an influential and distinguished member of the opposition, we had reason to believe that they did not think the British doctrines wrong on this subject. He alluded to a letter said to be written by a gentleman of great consideration, residing in an adjoining state, to a member of this house, in which the writer states that he conceives the British claim to be right, and expressed his hope that the President, however he might kick at it, would be compelled to swallow the bitter pill. If the peace had really given up the American doctrine. It would have been, according to that opinion, merely yielding to the force of the British right.—In that view of the subject the error of the administration would have been in contending for too much in behalf of this country; for he presumed there was no doubt that whether right or wrong, it would be an important principle gained to secure our seamen against British impressment. And he trusted in God that all future administrations would rather err on the side of contending for too much than too little for America.

But, Mr. C. was willing to admit that the conduct of the administration ought to be tried by their own opinions, and not those of the opposition. One of the great causes of the war, & of its continuance, was the practice of impressment exercised by G. Britain; and if this claim has been admitted, by necessary implication or express stipulation, the administration has abandoned the rights of our seamen. It was with utter astonishment, that he heard that it had been contended in this country, that because our right of exemption from the practice had not been expressly secured in the treaty, it was therefore given up. It was impossible that such an argument could be advanced on that floor—No member who regarded his reputation would dare advance such an argument here.

Had the war terminated, the practice continuing, he admitted that such might be a fair inference; and on some former occasion, he had laid down the principle, which he thought correct, that if the U. States did then make peace with Great Britain, the war in Europe continuing, and therefore she continuing the exercise of the practice, without any stipulation to secure us against its effects, the plain inference would be, that we had surrendered the right. But what was the fact? At the time of the conclusion of the treaty of peace, G. Britain had ceased the practice of impressment; she was not only at peace with all the powers of Europe, but there was every prospect of a permanent and durable peace. The treaty being silent on the subject of impressment, the only

plain rational result was, that neither party had conceded its rights but they were left totally unaffected by it. Mr. C. said he recollected to have heard in the British House of Commons, whilst he was in Europe, the very reverse of the doctrine advanced here on this subject. The British ministry were charged by a member of the opposition with having surrendered their right of impressment, and the same course of reasoning was employed to prove it as he understood was employed in this country to prove our acquiescence in that practice. The argument was this; the war was made on the professed ground of resistance to the practice of impressment: The peace having been made without a recognition of the right by America, the treaty being silent on the subject, the inference was, that the British authorities had surrendered the right; that they had failed to secure it, and having done so, had in effect yielded it. The member of the opposition in England was just as wrong as any member of this house would be, who should contend that the right of impressment is surrendered to the British government. The fact was, Mr. C. said, neither party had surrendered its rights; things remain as though the war had never been made—both parties are in possession of all the rights they had anterior to the war. Lest it might be deduced that his sentiments on the subject of impressment had undergone a change, he took the opportunity to say, that although he desired to preserve peace between G. B. and the U. S. and to maintain between them that good understanding calculated to promote the interest of each, yet, whenever G. Britain should give satisfactory evidence of her design to apply her doctrine of impressment as heretofore, he was, for one, ready to take up arms again to oppose her.—The fact was, that the two nations had been placed in a state of hostility as to a practice growing out of the war in Europe. The war ceasing between G. B. and the rest of Europe, left England and America engaged in a contest on an aggression which had also practically ceased. The question had then presented itself, whether the U. States should be kept in war, to gain an abandonment of what had become a mere abstract principle; or looking at the results, and relying on the good sense and sound discretion of both countries, we should not recommend the termination of the war. When no practical evil could result from the suspension of hostilities, and there was no more than a possibility of the removal of the practice of impressment, I, as one of the mission, consented with sincere pleasure to the peace, satisfied that we gave up no right, sacrificed no honor, compromised no important principle. He said, then, applying the rule of the actual state of things, as that by which to judge of the peace, there was nothing in the conditions or terms of the peace that was dishonorable, nothing for reproach, nothing for regret.

Gentlemen have complained that we had lost the islands in the bay of Passamaquoddy. Have they examined into that question, and do they know the grounds on which it stands? Prior to the war we occupied Moose Island, the British Grand Menan. Each party claimed both Islands. America because they are in the limits of the U. States, and defined by the treaty of 1793; and G. Britain, because as she alleges, they were in the exception contained in the second article of that treaty as to islands within the limits of the province of Nova Scotia. All the information which he had received concurred in representing Grand Menan as the most valuable island. Does the treaty, in stipulating for an amicable and equitable mode of settling this controversy, yield one foot of the territory of the U. States? If our title to Moose Island is drawn in question, that of G. Britain to Grand Menan is equally so. If we may lose the one, she may the other. The treaty it was true, contained a provision that the party in possession, at the time of its ratification, may hold on until the question of right is decided. The committee would observe that this stipulation, as to possession, was not limited to the moment of the signature, but looked to the period of the ratification of the treaty. The American commissioners had thought they might safely rely on the valor of Massachusetts, or the arms of the U. States, to drive the invader from our soil; and had also hoped that we might obtain possession of Grand Menan. It is true they have been disappointed in the successful application of the force of that state & of that Union. But it is not true that we have parted with the right. It is fair to presume that G. Britain will, with good faith, co-operate in carrying the