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THE UNITED STATES AND THE DECLARATION OF PARIS.

There is a probability that the accession of the United States to the Declaration of Paris is shortly to be urged upon the Secretary of State. In such event the reasons favoring this action may well be worthy of our study. The articles of this important international compact, made in 1856, at the close of the Crimean War, were as follows:

1. Privateering is and remains abolished.
2. The neutral flag covers enemy's goods, with the exception of contraband of war.
3. Neutral goods, with the exception of contraband of war, are not liable to capture under enemy's flag.
4. Blockades in order to be binding must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy.

This Declaration was to be binding only as between the parties to it. Spain, Mexico, and the United States are the only commercial states of importance which have thus far failed to give in their adhesion, the two former being restrained by the refusal of the latter. The action of the United States was thus explained. The policy of this country was against the maintenance of a large navy. To supplement that navy in the work of commerce destroying and of enforcing the rules of naval war against neutral trade, the issue of letters of marque might be necessary. So that unless the Declaration were so amended as to exempt all innocent pri-

vate property, neutral or hostile, from capture, the accession of the United States was declared impolitic. This Marcy amendment was not carried, owing to the influence of Great Britain.

The question of accession again came up during the first year of the war of the Rebellion. Dropping this Marcy idea, Mr. Seward was willing to accede unconditionally. The obstacle came from France and particularly from Great Britain. For Mr. Seward was warned that the accession of his country could have no retroactive effect to "invalidate anything already done," could not be held, that is, to apply to the hostilities already broken out between North and South; with this limitation understood it would be accepted. Mr. Henry Adams in an interesting essay [1] enlarges upon the duplicity of Lord Russell in considering and replying to this offer. But to my mind Mr. Seward was not wholly blameless. For as always in the early years of the war he was proceeding on the assumption that the United States could not, and that foreign powers must not, recognize the belligerency of the South. Now in point of fact the government of the North had itself recognized Southern belligerency, by refusing to punish the crews of Southern men of war as pirates in spite of the decision of the court (Prize Causes, 2 Black, 635), and by establishing a blockade of Southern ports, which is a war measure. Holland, France and Spain as well as great Britain had already made formal recognition of the belligerency of the Confederate States. President Davis had been asked to bind his country to observe the rules of the Declaration and had declined. Under these circumstances why was it not reasonable to impose, as a condition upon a convention of accession, the proviso that the said accession should be prospective merely and should not be held applicable to the struggle at hand. But such a proviso conflicted with that false and hampering theory that the North was not at war with a belligerent power, and the offer of accession was withdrawn. This was more than thirty years ago. Now, however, in a time of peace with no ulterior motives possible, the question of accession is likely to be again brought forward and can be argued on general grounds. The object of the present article is to make very briefly a plea for such action.

As the article relating to paper blockades has been formally advocated by this country, it may be left out of consideration. The three other provisions of the Declaration may be arranged in a balance sheet, somewhat as follows:

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1 Historical Essays by Henry Adams. Scribner's, 1891.

The United States in account with the signatories of the Declaration of Paris —

Dr.	Cr.
For adoption of rules that (1) Free ships make free goods. (2) Enemy ships do not infect the neutral goods on board. E. & O. E.	For renunciation of the right to commission privateers.

The following propositions are laid down without argument as our premises:

1. The interests of the United States are on the whole on the side of neutral rather than of belligerent rights.

2. The two rules on the debtor side of the balance are already adopted by the policy of the United States.

3. If the United States should engage in war, the chances are largely that such war would be with a power weaker than itself in its war navy and naval resources.

The history of the American carrying trade during the Napoleonic wars, is a striking illustration of the value of neutral privileges. Although our ships had no right to shelter enemy goods under their neutral flag; although the doctrine of occasional contraband enforced by Great Britain, sometimes softened into preëmption, greatly interfered with our chief article of export, provisions; although the restrictive decrees of each belligerent, culminating in the utterly unjust and unlawful paper blockades declared by both, at times threw our trade into confusion; nevertheless American tonnage increased thirty, sixty, even one hundred, thousand tons per year.

If the economists are correct we are probably now approaching a time when our vanished foreign carrying trade will revive. Cheaper production will enable our manufacturers to exchange commodities with foreign countries more freely. Cheaper ships operating under less repressive shipping and port regulations, will reach out for their share of our own increased commerce, and of the commerce of the world. What does such trade need in view of the chances of war between our friends? It needs first fixed and stable conditions: second, the greatest freedom possible, the least possible interference from the exercise of belligerent rights. Now very little argument is required to show that in these respects the neutral shipper is better off under the Declaration, than the neutral shipper without it. Suppose war between Great Britain and France. Dutch or Danish ships, under the Declaration, could carry French goods not contraband nor bound to a blockaded port safely, while on a United States ship, those same goods being

unprotected by the Declaration would be liable to capture. Under such circumstances French goods would seek other flags than ours. And again, since France until the Declaration condemned neutral goods sailing under an enemy's flag, and since the Declaration binds its members only as relates to one another, every ton of American wheat, every bale of American cotton, borne on an English ship would be subject to capture by French cruisers. This state of things would be similarly true in the event of any war between our friends unless a prior treaty with them forbade. We have treaties which lay down the principle of "free ships, free goods," with Spain, Russia, Prussia, Italy, and Sweden alone of important commercial powers. Probably France alone would claim the right to condemn our goods for seeking carriage on her enemy's ships. Under the principles stated it is clear that our neutral ships could not compete on even terms with other neutral ships for the carrying trade. And if France were a belligerent our goods might be subject to great inconvenience and even danger. The rights of the Declaration then are of vital importance.

Turn now to the credit side of the account and notice what we should be obliged to surrender as the equivalent for these benefits, the right to commission privateers. It is the clinging to this right which has hitherto stood in our way.

It is not a little curious, that while insisting upon the right to issue letters of marque to subjects of other countries, the United States forbids its own subjects by statutes of 1797 and 1816, to take part in the equipment or manning of privateers to act against nations with which it is at peace. While retaining this demoralizing form of warfare, it denies to its citizens the right to share in its profits when other nations employ it. From this fact may fairly be drawn the inference that privateering is a trade of which this country in the abstract disapproves. More than this the United States has negotiated eleven treaties which reciprocally contain the same prohibition.

The value of privateering is still further narrowed when we consider what it accomplishes. As the distinction in build and equipment and armament between men of war and other ships grows more marked, the privateer grows less important in waging war. War in the sense of an exercise of force upon armed ships is not really the object of privateering. Its reason for being lies in its capacity for attacking an enemy's commerce, which while primarily enriching the privateersman incidentally benefits the state commissioning him. He may also, though less readily, be useful in enforcing the laws relating to the carrying of contraband and to blockade. But, to-day, war navies are themselves built for

a twofold purpose, the heavy armored ships for fighting, the fast protected or unarmored cruisers with large coal capacity for preying upon commerce and enforcing belligerent rights against the neutral. The rise of ships of this latter class, virtually doing a privateer's work, detracts from the necessity for his existence. His importance is lessened by still another consideration. The value of privateering should be estimated not only absolutely but relatively. It helps the weaker naval power relatively more than the stronger. Its abolition was the reason, for instance, which induced Great Britain, the strongest of all naval powers, to consent to allow the neutral to carry her enemy's goods free under his flag. This surrender of a right consistently exercised by Great Britain since the time of the *Consolato del Mare*, was a very great concession.

Granting the premise that the United States is more likely to be at war with a power weaker in naval resources than itself, than with one stronger, it follows that privateering, considered apart from any equivalent gained in return for its abolition, would be more valuable to other countries than to us. The safety of our own commerce is more important than the destruction of the commerce of such an enemy.

If these arguments are sound, the United States is in this position. A very valuable privilege, involving a freedom of neutral trade which would put it on the same footing with the most favored nations, is offered it in exchange for the abolition of privateering.

It disapproves of privateering in the abstract. It forbids its citizens to engage in it when neutral. It has not itself employed privateers for two thirds of a century. It has ships which can do a privateer's work better than a privateersman, and with fewer evil results. Privateering would by the doctrine of chances help our enemies more than ourselves. In itself considered the retention of the right to commission privateers is not valuable to the United States. When the equivalent gained by its abolition is kept in view, the argument for accession to the Declaration of Paris is overwhelming.

The freedom from capture of all innocent private property at sea, even an enemy's, is the next step in the neutral programme. Our accession to the Declaration should help towards this. Our accession should be coupled with that of Spain and Mexico. A foreign war affecting American commerce may break out at any time and with scant warning. If our accession to the Declaration is a proper step, it should be taken *now*.

Theodore S. Woolsey.