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Bergen prizes--Gunnison, Parke, Alexander. Volume 334, Report 389 1837/1838

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BERGEN PRIZES—GUNNISON, PARKE, ALEXANDER.

JANUARY 12, 1838.

Read, and postponed until Friday, 19th of January instant.

Mr. CUSHING, from the Committee on Foreign Affairs, to which the subject had been referred, made the following

REPORT:

The Committee on Foreign Affairs, to whom was referred the petition of William C. Parke, of South Reading, in the State of Massachusetts; also, the petition of Nathaniel Gunnison, of Portsmouth, in the State of New Hampshire; also, the petition of Lucy Alexander, of Stafford county, in the State of Virginia, report:

The petitioner William C. Parke represents that his deceased father, Matthew Parke, of whom he is sole heir, was a captain of marines on board the American frigate Alliance, Captain Peter Landais, at the time of the incidents hereinafter described; on account of which, he prays the interposition of the Government of the United States.

The petitioner Nathaniel Gunnison represents that his father, John Gunnison, was a carpenter, at the same period, on board the frigate Bon Homme Richard, Commodore John Paul Jones; and, in like manner, prays the interposition of the Federal Government.

The petitioner Lucy Alexander, in behalf of herself and other heirs of Laurence Brooke, represents that the said Laurence Brooke was, at the same period, a surgeon on board the frigate Bon Homme Richard; and, in like manner, prays Congress for relief.

It appears, by documents on file in the Department of State, and by other authentic means of information, that, in the summer of 1779, the frigate Alliance, attached to the squadron under the command of Commodore Jones, made many captures from Great Britain, and took, among other vessels, the letter-of-marque ship Union, of London, of twenty-two guns, laden with military and other stores, and bound to Quebec; the letter-of-marque Betsey, of Liverpool, of twenty guns, laden with provisions and other merchandise, and bound to New York and Jamaica; and, also, the brigantine Charming Polly.

These vessels having been sent into the port of Bergen, in Norway, as a neutral port, were there seized by order of the King of Denmark, and restored to the original proprietors, on the alleged ground, that, as Denmark did not recognise the independence of the United States, she could not consider the captures to be legal.

These prizes were lawfully taken on the high seas, under the commis-

sion in the service of the United States, held by the Chevalier John Paul Jones ; and were estimated as of the value, cargoes included, of fifty thousand pounds sterling.

So soon as the fact of the seizure and restoration of these vessels by Denmark became known, it excited a great and just indignation on the part of the United States. Dr. Franklin, who then represented our Government at the Court of Versailles, immediately addressed to the Count Bernstorff, the Danish Minister of Foreign Affairs, a memorial, warmly remonstrating against the procedure of Denmark, and claiming the restitution of the prizes. Dr. Franklin also entered into negotiation on the subject, with the Danish minister in France ; but all without success.

In consequence of this, Congress, in 1787, adopted a resolution, instructing Mr. Jefferson, the American minister at the Court of Versailles, to represent to the King of Denmark that the United States continued to be very sensibly affected by the circumstance in question, and to reiterate the demand for a restitution of the prizes, or the payment of an equivalent indemnity ; in the prosecution of which object, our minister was empowered to appoint a special agent to conduct the negotiation at the Court of Denmark.

Accordingly, Mr. Jefferson commissioned the Chevalier John Paul Jones himself to repair to Copenhagen, and pursue the claim, as well in behalf of himself and the other individuals interested in the captures, as on account of the national injury done to the United States. Captain Jones, however, was unable to effect any thing ; and the negotiations were again transferred to Paris, but with like want of definite results.

Here the matter seems to have rested until the year 1805, when it was revived, by reason of a memorial preferred by Captain Landais, at the first session of the ninth Congress, which passed an act granting him the sum of four thousand dollars, on account of his claim to prize-money accruing from said captures. By a report, made in the same Congress, by one of the committees of the House of Representatives, the claim of the United States and of its citizens to receive indemnity in the premises from Denmark, was particularly commended to the attention of the President ; and again, by a report made to the Senate in 1820, on the petition of James Warren, this is declared to be a subsisting claim on Denmark.

There is no trace, however, on the files or records of the Department of State, that any further correspondence with Denmark ensued, in reference to this subject, except in the year 1812, when Mr. Monroe, at that time Secretary of State, addressed a note of inquiry concerning it to Mr. Pedersen, the Danish chargé d'affaires in the United States. To this letter Mr. Pedersen replied that Denmark had never admitted the claim to be a fair and legal one ; and had, for many years, considered it as a superannuated and abandoned affair ; adding, however, that he would communicate the letter to his Government.

Meanwhile, Denmark, under one pretext or another, had just before this period committed a series of most unwarrantable and outrageous depredations on the commerce of the United States, which continued to be a subject of negotiation between the two nations until the year 1830, when a convention was concluded, by which Denmark engaged to pay to the United States an indemnity, though a very inadequate one, as compensation for those depredations.

That convention is couched in such language as, it would seem, to leave

open to negotiation the claim for the seizures made at Bergen. The fourth article is in the following words:

"In consideration of the renunciation and payments mentioned in articles one and two, on account of his Majesty the King of Denmark, the Government of the United States declares itself entirely satisfied, not only in what concerns the said Government, but also in what concerns the citizens of the said United States, *on account of the claims hitherto preferred, or which may hereafter be preferred, relating to the seizure, detention, condemnation, or confiscation of their vessels, cargoes, or property whatsoever, which, IN THE LAST MARITIME WAR OF DENMARK, have taken place under the flag of Denmark, or in the states subject to the Danish sceptre; and THE SAID CLAIMS shall consequently be regarded as definitively and irrevocably terminated.*"

This language, in which renunciation is made only of claims of the United States and the citizens thereof, on account of seizures and so forth which had taken place *in the last maritime war of Denmark*, becomes abundantly precise and significant when recollection is bestowed on the contemporaneous history of Denmark. The expressions refer, it is plain, to the maritime hostilities in which Denmark was involved by the long struggle in Europe, between Great Britain on the one side, and the French republic on the other, with their respective allies; and the phraseology effectually excludes the seizures made at Bergen.

It does not appear that any recent correspondence on this particular point has occurred, as between the United States and Denmark.

Your committee conceive that it is proper for the Executive of the United States to take into consideration the propriety of renewing the negotiations with Denmark on this subject.

It is not, as intimated by Mr. Pedersen, an abandoned affair; nor is it a superannuated one. Questions of honor and right, as between sovereign States, are not summarily disposed of like the debt of an individual, by a statute of limitations. There is no lapse of time which discharges a nation of the right to demand of another nation reparation for a palpable wrong.

Your committee, therefore, upon a view of the whole matter, recommend to the House the adoption of the following resolution:

Resolution referring to the President of the United States the claim of the United States against Denmark for the value of three prizes made by John Paul Jones.

Resolved by the House of Representatives of the United States of America, That the President of the United States be requested to consider the propriety of entering into negotiations with the Court of Denmark for the purpose of obtaining therefrom a just and equitable indemnification for the value of three prizes sent by John Paul Jones, in one thousand seven hundred and seventy-nine, into Bergen in Norway, and which were there delivered up by the Crown of Denmark to the English, viz: the letter-of-marque ships Union, of London, and Betsey, of Liverpool, and the brigantine Charming Polly.