

Lord William Wyndham Grenville

Orders in council (1809)

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ORDERS IN COUNCIL.

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The order of the day for summoning their lordships having been read,

Lord Grenville rose and spoke as follows: It will be in the recollection of your lordships, that I gave notice towards the latter end of last session of a motion grounded upon the Evidence which had then recently been taken at the bar, to address his majesty to rescind the Orders in Council. I was induced to withdraw that notice in consequence of some favourable reports which I then heard as grateful to my feelings, as, if realised, they would have proved beneficial to the best interests of [772] the country, viz., of there being a probability of an adjustment of the differences between this country and the United States of America. Those reports I have unfortunately found to be erroneous; and I now feel it to be my duty to bring forward a motion upon this most important subject. It is now of no consequence, whether the Orders in Council were the cause, or one of the causes, of the American Embargo. That question is now set at rest; a proposition having been made in August last to this government on the part of the United States, to suspend the Embargo with respect to this country, if we would rescind our Orders in Council; it is clear therefore, whatever might have been the case before, that since last August the continuance of our Orders in Council is the sole cause of the continuance of the American Embargo, inasmuch as that would be removed if they were rescinded. And, if I could be induced to imagine these Orders in Council to have been, previous to last August, consistent with the principles of justice, the rights of nations, of sound policy, still, my lords, the question has, since that period, assumed a different shape, and we must consider the question as it relates generally to our policy towards the United States. From the year 1783 to the commencement of the last war, the line of policy pursued by this country towards America, was conciliation; that was the system adopted by the administration of the late Mr. Pitt, and it was continued on the commencement of that war, when it became still more the policy of this country to conciliate America. Accordingly, in the year 1794 a Treaty of Commerce was concluded with the United States, which although said by some persons in this country to be too favourable to America, and by some persons in America to be too favourable to this country, was, I believe, an impartial treaty, giving to

neither party too great an advantage over the other. The amity and the friendship between the two countries continued till the termination of that treaty. Some differences subsequently arose, and two years ago, when I was called to his majesty's councils, I conceived it to be my duty immediately to set about atchieving, if possible, that important object, the adjustment of our differences with America. It was highly satisfactory to mo, that the details of this negotiation devolved into abler hands than mine, and a treaty was concluded. No sooner was it known that [773] a treaty had been concluded, and before its provision could be known, than every engine was set to work by persons in this country, who were determined to leave no means untried to provoke hostility with America, and the most gross misrepresentations were made of the object and provisions of the treaty. I waited with impatience until the treaty could be published; it was at length sent back irons America and published, and then it was seen how grossly untrue these misrepresentations had been; it was then discovered, that whilst every provision had been made fairly to conciliate America, the greatest care had been taken to maintain the maritime rights and maritime superiority of this country, and that in this respect we had been more provident than the noble earl opposite, his majesty's Secretary of State, had been, in a communication made by him to the government of the United States, in which he laid down in some sort a basis for a new Treaty. Upon this head we had decidedly the advantage in the treaty we concluded; having done away the effect of the unwise proposition made by the noble earl. By that time the noble lords opposite, and their colleagues, had been called to his majesty's councils, and they determined on pursuing a line of conduct totally different from the system we had thought it our duty to adopt. With reference to Ireland, to the Northern Powers, to America, every part of their system was totally different. I am glad it was so—I do not mean to say that I am glad to see such a system pursued, but seeing what their policy is, I am glad that it is totally different to what ours was. After their ill-advised and unjust expedition to Copenhagen, America was the only neutral power that could be looked to, and one would have thought that his majesty's government would have gladly sought to conciliate America, seeing that nearly all Europe was combined against us, and shut against our trade; and that America opened to us a market capable of taking nearly all our commerce, and with the probability, that with the increasing prosperity and population of this branch of the parent state, the market would be in no very long period so extended, that we should scarcely be able, with all our means, to supply it. His majesty's ministers, unfortunately, pursued a

different line of conduct: America covered the ocean with her ships, and is majesty's ministers determined on [774] sweeping them from it. They therefore issued their Orders in Council to compel the vessels of an independent state to pay duties to the British Government, for leave to carry on their trade. It was natural, that the people of the United States should be jealous of such an extraordinary attack upon their independence; it was natural that that jealousy should be the greater, from the circumstance of their independence having been so recently acknowledged by this country. This attempt to levy duties upon the ships and merchandize of the United States, bears a close analogy to the attempt made forty years ago, to levy taxes in America, which caused the revolution that ultimately severed those colonies from the parent state. I hope, my lords, the system now pursued will not plunge the two countries into hostilities, so fatal to their best interests; but, unfortunately, there appears a determination in the part of his majesty's government, to do every thing, that can tend to force on that very hostility, which is so much to be deprecated. What have they attempted to do by these Orders in Council but to deprive the people of the United States in reality of their independence, by forcing them to bring all their productions to this country, to pay duty, and thus to reduce them again in effect to the situation of colonies of this country. It is well known that there is a vulgar notion in America, that it is the object of the British Government to destroy their independence, and to reduce them again to the situation of colonies. It cannot be supposed for a moment that any enlightened statesman, or even any man of common sense in this country, can be desirous that the United States should again become the colonial possessions of this country. It is a well-known and notorious fact, that the commerce, the wealth, and the prosperity of this country have been greatly increased in consequence of the revolution by which the colonies, now forming the United States, were separated from this country, and it is impossible that any man of common sense can wish that they should be again brought back to the situation of colonies. What, however, is the effect of the Orders in Council? They were clothed in a number of words which even those who framed them scarcely understood; which were very difficult to be understood by others. But what has been their effect, for to their practical effect we must [775] look in considering the extent and relations of these measures? America, in the present state of the world, is the only country upon which they could operate; and with respect to America, their effect is to produce a colonial monopoly of all the merchandize of the United States, which is to be brought to this country

to pay duty before it can be conveyed to any part of the world. How, then, must such a measure operate upon the minds of the people of America, jealous of their newly acquired independence, and still more jealous of this country, from the notion which I before stated to prevail amongst them; how much must such a measure tend to alienate their minds from this country? We were told in high sounding language when these measures were before parliament, of the sums, which would be raised by the duties levied upon neutral commerce, of rendering the commerce of the enemy tributary to this country, and of making the enemy himself contribute largely to the expences of the war, and to relieve the pressure and the burdens of the people of this country. What, my lords, has been the revenue actually raised from this source, the productiveness of which was so pompously announced? It appears by a statement of the produce of the duties levied under the Orders in Council Acts, up to the 5th of January, that they have produced the enormous sum of Thirty-one thousand pounds! Thirty-one thousand pounds, my lords, to relieve the pressure and burdens of the people, and to contribute largely to the expenses of the war; and this sum levied upon vessels brought by force into our ports. (A cry of No, no! from the other side of the house!) It has been, however, partly levied upon vessels brought by force into our ports, and partly upon those coming in voluntarily. In looking at such a sum thus produced, it may well be asked, as it was with respect to the Tax on Tea, forty years ago, in America, what price do we pay for this paltry revenue? And yet the Tea Duty, would have produced mints and millions, compared with the produce of the Duties, levied under that unjust and impolitic measure, the Orders in Council. When I contemplate such a paltry issue derived from this measure, so much boasted of, for the benefit which it was to confer upon the country, I cannot impute to his majesty's ministers so much ignorance as to suppose they had any other motive in carrying into effect the Orders in Council [776] than to force America into hostility. I do not wish to have this expression considered as uttered in the warmth of argument, for I do firmly believe, that it is the object of his majesty's ministers to do every thing in their power to force America into hostility with this country. It is incumbent, upon me, my lords, to declare my retractation of an opinion which I had taken up in consequence of an erroneous impression from an expression used in the President's Message to Congress, and which I was at first induced to believe displayed a greater partiality to France than to this country, in offering to the former power to become a party in the war against this country. I had no further information upon the subject.— Ministers ought to have been informed

upon it, and yet the noble earl, his majesty's Secretary of State, argued, that this partiality to France was actually evinced; that this difference in the overtures made to the two countries actually took place, although it is now perfectly clear that there was no difference, that there was no greater partiality to France, than to this country, and that the propositions made to the two countries, were not merely in effect, but were verbatim the same. An attentive consideration, even of the expression in the Message of the President, which has been so much misrepresented, will clearly prove that the difference stated to exist between the propositions made to the two countries, was not stated by him to exist. The expression in the Message, to which I allude, is this: "The instructions to our ministers, with respect to the different belligerents, were necessarily modified with a reference to their different circumstances, and to the condition annexed by law to the executive power of suspension, requiring a degree of security to our commerce, which would not result from a repeal of the Decrees of France. Instead of a pledge, therefore, for a suspension of the Embargo as to her, in case of such a repeal, it was presumed that a sufficient inducement might be found in other considerations, and particularly in the change produced by a compliance with our just demands, by one belligerent, and a refusal by the other, in the relations I between this other and the United States" —It must be clearly evident that the repeal of the French Decrees, would not give the necessary security to the commerce of America, and therefore it was not thought necessary to offer to the [777] French government the repeal of the Embargo in return; but it was offered to France, that if she would repeal her Decrees, and we refused to rescind our Orders in Council, that America would then be at war with this country; but it was offered to us, not merely that if we repealed our Orders in Council, and France refused to rescind her Decrees, America would be at war with France, but that the Embargo should be suspended with respect to this country. Thus the greater advantage was offered to us, instead of any partiality being shewn to France. That this was explained to his majesty's ministers, and must have been understood by them, appears clearly from the papers on the table. In a letter from Mr. Pinkney to Mr. Secretary Canning, dated the 23d of August, 1808 will be found the following passage. "If, as I propose, your Orders should be rescinded as to the United States, and our Embargo rescinded as to Great Britain, the effect of these concurrent acts will be, that the commercial intercourse of the two countries will be immediately resumed; while, if France should adhere to maxims and conduct, derogatory to the neutral rights of the United States, the Embargo continuing as to her, will take the place of

your Orders, and lead with an efficacy, not merely equal to theirs, but probably much greater, to all the consequences that ought to result from them. On the other hand, if France should concur in respecting those rights, and commerce should thus regain its fair immunities, and the law of nations its just dominion, all the alleged purposes of the British Orders will have been at once fulfilled. If I forbear to pursue these ideas through all the illustrations of which they are susceptible, it is because the personal conferences to which I have before alluded, as well as the obvious nature of the ideas themselves, render it unnecessary."— In these personal conferences, there can be no doubt that the propositions made by America were fully explained, and by the subsequent Note from Mr. Secretary Canning to Mr. Pinkney, dated the 23d of Sept. it must appear evident that his majesty's ministers were convinced that no such partiality, as alledged, had been shewn by the United States to France. There is another Letter from Mr. Secretary Canning, published in an American paper, but which is not amongst the Correspondence on the table, in which it still more clearly appears that ministers were fully aware of the real nature of the propositions made by America to France. The nature of the propositions made to France, is distinctly proved by a reference to the Instructions given to general Armstrong, the American minister at Paris, the material words of which will be found to be verbatim the same with the instructions to Mr. Pinkney here, with respect to the change that would be made in the relations with either power refusing to repeal its Decrees or Orders, the other power consenting to rescind them. It is therefore perfectly clear that no partiality was evinced towards France; and it is also evident, that his Majesty's ministers must have known that such was the fact. I cannot help, however, whilst upon this correspondence, remarking upon the monstrous principle assumed in the note of Mr. Secretary Canning, to which I before alluded, in which he states, that the Orders in Council were founded: "on the unquestionable right of his majesty to retort upon the enemy the evils of his own injustice, and upon the consideration that, if third parties incidentally suffered by these retaliatory measures, they were to seek their redress from the power by whose original aggression that retaliation was occasioned." Is it because the enemy has been guilty of gross injustice, that therefore we are to commit injustice? Are we to imitate the enemy in his crimes, and commit the same enormities because he has committed them? Upon this principle we might, because he has unjustly invaded the territory of an ally; send a king of our own choosing to Sweden or to Sicily, and force them to accept of him. The principle here assumed does not hint at the acquiescence of a neutral,

but claims at once the general and sweeping right of retaliating upon the enemy his own injustice, whether neutrals acquiesced in it or not. I cannot also help remarking upon the chain of irony and sarcasm adopted in this note, a style new to diplomatic correspondence, and which is wholly unsuited to the subject. It is well known, I believe, that the passage alluding to the inconvenience which must be occasioned in America by the Embargo, produced, when read in Congress, an universal sentiment of indignation. It is absolutely essential that independent states, however one may be inferior to the other in power, should negotiate on the footing of equality. And how, I ask, would it be received here, if the government of the United States, in any [779] official correspondence with this country, should allude for instance, to the supposed effect of any measure adopted by this government upon the manufacturers of Lancashire.— My lords, the only ground upon which the Orders in Council have been defended in this house, has been the acquiescence of America in the Decrees of France. It is now clearly proved, that if America ever did acquiesce in these Decrees, she no longer does so. It is now clearly ascertained, that America has offered you to suspend her Embargo, if you rescind your Orders in Council, and to go to war with France, if France then refuses to repeal those parts of her Decrees which affect the neutral rights of America. Here, then, is a clear proposition, which takes away the only ground, upon which the Orders in Council stood, upon which they were defended by noble lords on the other side. This only ground being taken away, it of course clearly and obviously follows, that the Orders in Council ought to be rescinded. If, however, we are to judge from the Note to which I last alluded, the experiment is to be tried, whether we can exist without the commerce of America, with all Europe combined against us, and thus the vital interests of the country are to be wantonly hazarded. I have heard of a man who was desperately wounded, but there being several wagers laid as to whether he could recover from his wound, no surgical assistance was allowed to be given him, in order that the experiment might be tried, at the hazard of his life, whether he could recover or not. So, it seems as if ministers wished to try a similar experiment with the country, and that because France has said that we cannot exist with Europe shut against us, and without the commerce of America, that therefore the experiment is to be tried, and the very vital interests of the country put to hazard. The noble earl (Bathurst) has this night moved for some Returns respecting our North American colonies. It does seem most extraordinary that at such a critical moment, the force in these colonies should have been sent to atchieve a distant object, with no probability of success, which has since

failed, and which, if it had succeeded, would have been of no consequence, would have been merely the acquisition of another sugar island, an object which at the present moment can surely be deemed of no importance. I hope that force has since returned to its former station,— My lords, [780] it is my duty to impress upon your attention, however painful the task, some of the melancholy consequences of these Orders in Council. The diminution of our commerce from the operation of this measure is an evil of alarming magnitude. It appears by the documents on the table that the exports, which in the year ending the 10th of October, 1807, amounted to 48,500,000l., amounted in the year ending the 10th of October, 1807, to only 42,300,000l., a diminution of 6,200,000l.; the diminution of imports in the same period amounts to 5,200,000l. In this statement, also, it should be recollected that Ireland and Scotland, a great part of whose trade was with America, are not included; giving them therefore, a proportionate share, the diminution of our commerce may be fairly estimated at 14,000,000l. It should also be recollected, that this diminution has taken place in a year during four months of which the Orders in Council did not operate, these Orders not having been issued till November, and not being in full operation till January. In the article of wool, the staple commodity of the country, and in a number of other articles, an alarming diminution has taken place, and also in the importation of raw materials, essential to our manufacture. A number of cotton mills have in consequence been stopped, and the workmen thrown out of employ. The great importance of the linen manufacture of Ireland is well known, and the difficulty in procuring flax-seed is at present a serious evil; of 45 hogsheads required for sowing, 35 must be procured from America. In consequence of the interruption of the trade with America the price of flaxseed, which was from 2l. to 3l. per quarter, has risen to from 22l. to 24l. per quarter. It is now February, and if the necessary quantity of flax-seed is not procured before May, the consequences will, indeed, be serious. Another evil, my lords, of serious magnitude, is the deficient supply of corn; it is well known that we do not grow enough for our own consumption, and that as the ports in the north of Europe are now shut against us, we can only look to America for an adequate supply, and I need not point out to your lordships the distressing consequences which must result from the want of such a supply. I wish, however, to be distinctly understood upon one point, with respect to the maritime rights and the maritime superiority of the country. The evils which I [781] have enumerated must necessarily accumulate, with the continuance of the Orders in Council, but whatever may be the increase of those evils, I wish distinctly to be understood to be of opinion,

that, if the maritime rights, and the maritime superiority of the country are really in question, then war in support of them will become a just and legitimate war, and every privation ought to be submitted to in such a cause; but the war which his majesty's; ministers appear determined to wage with America would be an unjust and unnecessary war, a war without ground or pretence. Upon their own ground of colonial monopoly they ought to rescind the Orders in Council, upon the proposition of America; as then, by the very terms of that proposition, they would have, in effect, a colonial monopoly, and America would be at war with France. By rescinding the Orders in Council, as proposed by America, they will secure, in effect, all the advantages which they proposed to themselves, as the result of the operation of those Orders, with the great additional advantage of conciliating America, and securing her friendship. It is deeply to be lamented, that this proposition on the part of America was not acceded to in August last when made: it is of great importance, in my opinion, that that proposition should be now acceded to. The Orders in Council, unjust in their principle, are now proved to be most injurious, in their effect, to the interests of this country, whilst the pretence, on which they were founded, is now completely taken away; it being proved to demonstration, that America does not acquiesce in the infringement of her neutral rights by the Decrees of France.— His Lordship concluded with moving,

"That an humble Address be presented to his majesty, humbly to represent to his majesty, that in consequence of certain Decrees, made by his majesty's enemies, contrary to the usages of war, and the rights of neutral nations; and also in consequence of the alledged acquiescence of neutral nations in the said Decrees, his majesty was advised to issue certain Orders in Council respecting the trade of neutrals to and from the ports and countries of his majesty's enemies: and that the said Orders were further enforced by certain acts passed in the last session of Parliament: but that both in the said Orders and in the Acts passed thereon, a power was reserved to his majesty of annulling the same, whenever Rich revocation should appear expedient,— [782] That the Congress of the United States of America, alarmed at the dangers to which neutral commerce was exposed, by the said Decrees, and by the system then known to be in the contemplation of his majesty's government, and actually carried into effect by the said Orders in Council, passed laws for laving an immediate Embargo on all American vessels and exports.—And that by the operation of such laws, all trade of export, from the said States into this

kingdom or its dependencies, has been prohibited, and the commercial intercourse of his majesty's subjects with the said States has been, in other respects, essentially impeded.—That in the month of August last, the minister of the United States, resident at this court, made to his majesty's government an authorised and explicit offer of re-establishing the said intercourse, proposing, that if his majesty's Orders in Council should be repealed, as far as regarded the United States, the Embargo imposed in the said States should be removed, as far as regarded his majesty's dominions; and adding, that if his majesty's enemies should not rescind their Decrees, the said Embargo should be continued as with respect to them.—That this offer on the part, of the United States appears to us just in principle, and in its tendency highly advantageous to the essential interests of this country. Just, in as much as it removed all pretence of the acquiescence of the United States in the French Decrees; which acquiescence was the only ground on which any right could accrue to his majesty to interrupt the innocent commerce of a neutral power; and advantageous to Great Britain, inasmuch as if it should not have produced the repeal of the French Decrees (the avowed purpose of his majesty's Orders), it must have secured to this country the exclusive commerce of America, and the alliance against I a power which has become the common enemy of both.— That we believe and hope that it is still open to his majesty to renew them on the basis of this proposal; the commercial intercourse between this country and the United States; every interruption of which we consider as manifestly injurious to the interest of both, and particularly calculated, in the present crisis, to assist the designs of our enemies, I and to weaken our own resources — That we, therefore, most humbly pray his majesty to adopt, without delay, such measures as may best tend to the immediate? [783] re-establishment of the commercial intercourse between his majesty's dominions and the United States of America, and to bring, by temperate and conciliatory negotiation, all other points of difference to a just and amicable conclusion.— Assuring his majesty of our firm and invariable support, in maintaining, against every Unjust aggression, and every novel claim, the ancient and essential maritime rights of his majesty's crown."