

nations. Britain based them upon the illegal measures of Napoleon and sought to justify them by alleging the acquiescence of neutrals in the illegal measures of her opponent. Mahan points out that the prohibition against entering certain ports was not because they were blockaded, but "as if the same were actually blockaded." There was no attempt to change the law of blockade, but Britain claimed that by reason of neutral nations submitting to Napoleon's decrees, she had a right to compel them to submit to similar decrees on her part.

Sir William Scott (1812), *The Snipe*, Edwards Ad. R., 381, says, "these orders were intended and professed to be retaliating against France; without reference to that character they have not and could not be defended, but in that character they have been, justly in my apprehension, deemed reconcilable with those rules of natural justice. . . ."

This was probably bad law and certainly bad morals. The obnoxious Orders-in-Council admittedly violated international law; but they were a war measure, and they were repealed a few days after the declaration of war, before any news of it could get across the Atlantic and before any steps of aggression were taken in the war. I have consequently not supposed that anyone could or did contend that the war was carried on for anything contained in these Orders-in-Council, or that the repeal was in any wise a result of the war.

That the war was not carried on as a result of anything contained in the Orders-in-Council is made especially clear when we remember that when the Peace Commissioners came together "the American *projet* . . . consisted of articles embodying the American positions on the subjects of impressment and blockade with claims for indemnity for losses sustained by irregular captures and seizures during the late hostilities between France and Great Britain; a *provision aimed at the Orders-in-Council*. These demands which covered the motives of the war and may be regarded as the offensive side of