

ascertain whether the cargo contained contraband of war. The mode of manning the Navy at this time added to the complications; the national law of Great Britain that "once a subject always a subject" was followed to its logical conclusion by impressing from every vessel visited by her ships of war British subjects or those assumed to be so. As the almost total monopoly of the continental European carrying trade enabled the United States merchants to offer larger wages for able seamen, it is no wonder if their vessels were manned by the very best class of British sailors, nor if their forcible abstraction created great excitement amongst those who were the sufferers by the operations of what was evidently an absurd and unjust code enforced by the strong hand of power.

A very foolish Order in Council permitted the belligerents to "import Colonial produce into the Mother Country, only paying a duty to the Government of the neutral State to whom the carrier flag belonged;" this continued in force from 1801 till 1806; its consequences were those detailed as throwing the carrying trade into American hands and its revocation created great national discontent in the United States.

The naturalization laws of the latter power, loosely framed, were unmercifully abused. Certificates were granted to British seamen on demand, and even the Navy did not hesitate to receive and enrol deserters from the British Men of War.

Maritime law has always been a fruitful subject of contention, but in this case it would be impossible to say what it really defined or how or by whom it was primarily violated.

Previous to the actual declaration of War many high handed acts had been perpetrated by the British officers on the American coast. Contending with a power which could only impose a *paper* blockade, it is not to be wondered at if, annoyed at the quibbles and evasions of astute Yankee skippers, and disgusted at the barefaced tergiversation with which they pushed a dishonest trade in contraband of War, a bluff brave seaman occasionally lost his temper, nor does it reflect much credit on the American Government that they invariably took the part of the offender.

To prevent the open trade in contraband of War carried on at New York and Boston, the *Leander*, an old 50 ship commanded by Capt. H. Whitby, in company with the *Cambrian* of 40 guns, was ordered to cruise off those ports with strict injunctions not to use force within any bays or other marks indicating the dominion of the United States.

On the 25th April, 1806, Capt. Whitty was at dinner on board the *Cambrian* while several coasters were being overhauled and were fired at in order to bring them to. A shot from the *Leander* was said to have killed a man named John Pearce on board an American schooner, and this was charged

as wilful murder on the part of Capt. Whitty. The President of the United States issued an order prohibiting the *Leander* from entering any port of the United States and represented the matter so strongly that Capt. Whitty was placed under arrest and sent to England to be tried by Court Martial on "the capital charge"—and after a year's vexatious delay owing to the intrigues of the American authorities he was tried and honorably acquitted. It did not appear on the trial that such a man as John Pearce whose death was charged in the indictment ever existed.

During the summer of 1807 the Halifax sloop of War, commanded by Lord James Townshend, was lying in Hampton Roads, having occasion to send his jolly boat on some service, the crew despite the Master's command took the boat ashore and deserted—in endeavoring to reclaim those men the Captain was insulted in the streets and could obtain no redress. This matter was reported to the Senior Officer on the station, who sent the *Leopard*, 50 guns, Capt. S. P. Humphries, with instructions to claim the men from the American Commodore Barrow, on board whose ship they were reported to have entered.

On the 22nd June the *Leopard* chased a strange sail which proved to be the *Chesapeake*, an American frigate of 36 guns (18 pounders) 300 men; when near enough Captain Humphries hailed and said he had "despatches from the British Commander-in-chief;" the answer was "Send them on board, I shall leave to." An officer and boat's crew were sent on board the *Chesapeake* with a copy of the Commander-in-chief's order to search for deserters, and a note from Captain Humphries as follows:—

"The Captain of His Majesty's ship the *Leopard* has the honor to enclose to the Captain of the United States frigate *Chesapeake*, an order from the Honorable Vice Admiral Berkely Commander-in-chief on the North American Station, respecting some deserters from the ships therein mentioned under his command and supposed now to be serving as part of the crew of the *Chesapeake*."

"The Captain of the *Leopard* will not presume to say anything in addition to what the Commander-in-chief has stated more than to express a hope that every circumstance respecting them may be adjusted in such a manner that the harmony subsisting between the two countries may remain undisturbed."

After an absence of three quarters of an hour the boat returned with the following answer:—

"I know of no such men as you describe—the officers that were on the recruiting service for this ship were particularly instructed by the Government, through me, not to enter deserters from His British Majesty's ships, nor do I know of any being here. I am also instructed never to permit the crew of any ship I command to be mustered by any but her own officers. It is my disposition to preserve harmony, and I hope this answer will prove satisfactory."

"Signed, JAMES BARROW."

The *Leopard* now edged down towards the *Chesapeake* and Captain Humphries said—"Commodore Barrow you must be aware of the necessity I am under of complying

with the orders of my Commander-in-chief." These words were twice repeated and the only reply returned was—"I do not understand you"—which words were distinctly heard on board the *Leopard* although she was to windward. She then fired a shot across the bows of the *Chesapeake* which was followed by a second, and immediately after by a broadside. Commodore Barrow hailed that he would send a boat on board, but as the frigate was evidently preparing for action the *Leopard* continued her fire; at the third broadside the American colors were hauled down and Lieutenant Smith of the *Chesapeake* came on board with the following letter:—

"Sir,—I consider the frigate *Chesapeake* as your prize and am ready to deliver her to any officer authorised to receive her, by the return of the boat I shall expect your answer; and have the honor to be &c. J. BARROW."

To which Capt. Humphries replied as follows:—

"Sir,—Having to the extent of my power fulfilled the instructions of my Commander-in-chief I have nothing more to desire, and must in consequence proceed to join the remainder of the Squadron, repeating that I am ready to give you any assistance in my power, and do most sincerely deplore that any lives should have been lost in the execution of a service which might have been adjusted more amicably, not only with respect to ourselves, but to the nations to which we respectively belong."

"I have the honor to be, Sir,

"S. P. HUMPHRIES."

Lieutenants G. T. Fallen, G. M. Guiso, and J. Meade, with a party of men, proceeded on board the *Chesapeake* and mustered her ship's company of whom twelve were recognised as deserters, four of whom only were brought away, three belonging to the *Melampus* and one to the *Halifax*. The *Chesapeake* was badly damaged, had three seamen killed and 17 wounded.

The British Government disavowed the act of Vice Admiral Berkely and Captain Humphries, both of whom were recalled and the right of search was abandoned. Commodore Barrow was tried by a Court Martial and dismissed the Service of the United States.

There were two courses which were open to him, either of which he might have adopted with honor; the first would be to muster his crew and allow one of the *Leopard*'s officers to identify any deserter which might be amongst them—the second was to avow he had the men but would not give them up as inconsistent with his country's honor; he did neither—without preparing for action he allowed his ship to be used as a press gang would use a tavern and was therefore justly dismissed.

The conduct of Admiral Berkely and Capt. Humphries although marked by spirit was equally or more reprehensible; it was a direct insult to the United States, and it is a matter for surprise that it was not sooner resented, however such deeds prepared the way for the contest which was to follow.

The French Government has suggested the neutralization of ships engaged on hospital service during war,