

## Chapter 30 - British Acts Of War Lead To The Ruinous “Embargo Act”

Time: 1805-1806

### Britain “Impresses” US Sailors To Fight France



Ships at Sea off Gibraltar

Napoleon’s rampage across Europe and his war with Britain inevitably brings Jefferson into the middle of a conflict he would rather avoid.

The conflict is triggered by British “impressment” of American sailors.

Unlike the French with its dominant land army, the British rely on their Royal Navy to defend the homeland and their possessions around the globe. By 1805, as Napoleon notches one victory after another, they rush to build up their corps of

able-bodied seamen from a peacetime force of 10,000 to the 140,000 level they feel are needed for war. Their search turns in part to British sailors who have deserted the harsh conditions and disciplines imposed by their ship captains. Nelson pegs this figure at around 40,000 men – with many of them taking refuge on board more lenient American ships.

Britain’s plan is to “retrieve” these nationals and return them to the Royal Navy. At the same time, King George III, still smarting from the French-backed defeat at Yorktown, and assuming that Jefferson favors his former allies, supports the notion of snatching American sailors as a justifiable form of pay-back.

Before proceeding, however, Britain looks for a legal rationale to stop and board American ships. Here they cite their own high court decision, rendered on May 22, 1805, against the American merchant ship *Essex*, accused of violating The Rule of 1756 by transporting cargo banned during times of war.

In turn, they now use The Rule of 1756 as a legal excuse for stopping US ship to examine their cargo – and, at the same time, to seize American sailors.

“Press gangs” are formed to carry out this new policy, and by 1806 it’s estimated that some 10,000 seamen have been taken, some British deserters, but also many American citizens. A major diplomatic controversy follows.

On February 12, 1806, the Senate passes a resolution condemning Britain’s seizure of American ships and seamen. Actual sanctions follow on April 18 in the Non-Importation Act which bans

all British hemp, brass, nails, wool, glass, clothing, leather, hats and beer from entering American ports.

Further commercial interruptions follow. Napoleon adds to the controversy on November 11, 1806, with his Berlin Decree which intends to cut Britain off from all foreign imports, including those from the United States. When the British follow suit, all shipping activities between America and the two combatants are curtailed.

Jefferson continually tries to defuse the tensions with Britain. In August 1806, Secretary of State, James Monroe, and his aid, William Pinkney, open talks with representatives of the Whig Prime Minister, Lord Grenville. These lead nowhere, and end with a December 31 Treaty that disappoints Jefferson to the extent that he refuses to send it to the Senate for approval.

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Time: June 22, 1807

### ***HMS Leopard Attacks US Ship Off Norfolk, Virginia***



An American Sailor

Six months later, on June 22, 1807, the conflict ratchets up sharply as the 50 gun *HMS Leopard* attacks an American naval ship, the *USS Chesapeake*, off the coast of Norfolk, Virginia. After falsely informing the *Leopard* that it has no British deserters in its 340 man crew and that it will not submit to a boarding party search, the *Chesapeake* turns to sail away. As it does so, it is struck by a full broadside bombardment. The surprised Americans are able to get off only one round of return fire before they strike their colors and surrender. Three U.S. sailors are killed and another 18 are wounded in the brief action.

A press gang from the *Leopard* boards and searches the *Chesapeake* and arrests four men claimed to be British nationals and deserters. Three turn out to be Americans, eventually released after their sentence of 500 lashes is commuted. The fourth man, Jenkin Ratford, is in fact a British born deserter. He is soon tried and hanged from the yardarm of the *HMS Halifax*.

The American public is outraged by the incident, and Jefferson feels the pressure to retaliate.

*Never since the Battle of Lexington have I seen this country in such a state of exasperation as at present, and even that did not produce such unanimity.*

His response, however, is measured and restrained. Secretary of State James Madison issues a protest which demands that the British government condemn the *Leopard's* actions, return the

captured Americans, remove its warships from American waters and end the practice of impressment.

On October 17, Britain responds publicly, declaring its intent to ignore the American demands and step up its impressment activities.

Jefferson is now caught between the open belligerence of the British and the growing public demand for further action to defend the nation's honor.

He refuses to call Congress into a special session for fear of an immediate war resolution, but he does order all U.S. warships abroad to head home in case they are needed.

He then ponders what to do about America's fleet of merchant ships.

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Time: December 22, 1807

### **The Embargo Act Of 1807 Boomerangs On The Administration**

Secretary of State James Madison proposes a solution: the safest way to avoid war and to protect the nation's ships lies in restricting all commercial traffic between America and all foreign ports.

Ships that stay in American waters and move only between one domestic port and another cannot be accused of interfering in the European conflict, and will be more readily protected by the U.S. naval fleet.

Jefferson announces this idea in his seventh annual message to Congress on December 18, 1807.

*To the Senate and House of Representatives of the United States: The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise are threatened on the high seas and elsewhere, from the belligerent powers of Europe, and it being of great importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States. Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.*

The Embargo Act of 1807 passes in the Senate on December 18 by a margin of 22-6. Of the six nays, three are Federalists (Pickering of Mass, Hilhouse of Md and White of Del) and three are Democratic-Republicans (Crawford of Ga, Maclay of Pa and Goodrich of Conn). The House follows suit by an 82-44 margin, and the bill becomes law on December 22.

Details of the 1807 Act are as follows:

- American merchant ships are banned from setting sail to any and all foreign ports.
- Ships engaged in domestic traffic must post a “good will” bond before departing.
- U.S. Navy warships will enforce these rules.
- Any exceptions must be authorized directly by the President.

If effect, Jefferson and Madison intend to pull America back into a defensive posture, while Britain and France fight it out for European hegemony.

But instead of the public support they expect for the Act, the result is open hostility.

States that depend on international trade experience sharp economic downturns. Traders turn to smuggling to earn a living. Prices jump up on “necessities of life” in short supply and down on embargoed exports. Fear spreads that, if the ban goes on long enough, European customers for American exports will find alternative sources of supply.

On February 1, 1808, ex-Secretary of State Thomas Pickering calls for a convention of states who wish to “nullify” the act. Connecticut Governor John Trumbull follows on February 22 by telling his legislature that the act is unconstitutional, and that he will refuse to have the state militia enforce it.

Treasury Secretary Albert Gallatin also shares his concerns with Jefferson.

*As to the hope that it may...induce England to treat us better, I think is entirely groundless...government prohibitions do always more mischief than had been calculated; and it is not without much hesitation that a statesman should hazard to regulate the concerns of individuals as if he could do it better than themselves.*

But neither Jefferson nor Madison is ready to back off in the face of the internal pressure. Rather than reversing course, they embark on an almost Adams-like crackdown on those who resist the ban.

The most egregious violations appear in the Northeast, with overland and river route smuggling to and from Canada becoming commonplace. To suppress this, Jefferson invokes the Insurrection Act of March 3, 1807 -- which gives him the power to call in the standing federal army, not simply state militias, to suppress those obstructing the law.

*[I]n all cases of insurrection, or obstruction to the laws, either of the United States, or of any individual state or territory, where it is lawful for the President of the United States to call forth the militia for the purpose of suppressing such insurrection, or of causing the laws to be duly executed, it shall be lawful for him to employ, for the same purposes, such part of the land or naval force of the United States, as shall be judged necessary, having first observed all the pre-requisites of the law in that respect.*

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Time: March 1, 1809

### **The Act Is Repealed As Jefferson's Second Term Ends**

On March 12, 1808, further strictures are added to the Embargo Act. Stiff \$10,000 fines for those violating the ban become law, and port authorities are granted the power to search suspect ships and seize cargoes, without securing advance warrants. Madison remains convinced that the Embargo will succeed if only it is properly enforced.

Even Jefferson's most devoted backers are surprised by his readiness to use central government weapons – even the standing army -- against the clear wishes of a host of individual states and citizens. Hamilton might resort to this tactic; but to watch Jefferson and Madison engage this way is shocking to many Democratic-Republicans.

In the end, the 1807 Embargo survives over 15 months before the President gives in. The Act has had little effect on the European war, while producing widespread public resistance at home, including a resurgence of the Federalist party. Its only benefit has been to encourage the growth of domestic manufacturers, to fill the void in foreign imports.

Despite opposition from Madison, Jefferson repeals the Embargo during his last week in office.

On March 1, 1809, the so-called Non-Intercourse Act goes into effect. It allows shipping to resume with all nations except Britain and France. It also dangles a carrot in front of the two belligerents, offering a resumption of trade in exchange for a commitment to end future interference with American ships and sailors.

As with many presidents, the toll taken by second term reversals weighs heavily on Jefferson. His last six months in office reflect near paralysis, and, as typical, he captures his feelings in a succinct metaphor:

*Never did a prisoner, released from his chains, feel such relief as I shall on shaking off the shackles of power.*

Of course neither his short-term influence on the future course of American politics, nor his long-term legacy, ends in 1809 as he departs for Monticello.