

Protective Purpose of the Tariff Act of 1789

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PROTECTIVE PURPOSE OF THE TARIFF ACT OF 1789.¹

THE Tariff of 1789 has been called a revenue measure, and its low rates are urged as conclusive proof of its non-protective character. In view of the enormously high rates which the tariff legislation of recent times has associated with the idea of protection, this reasoning seems plausible, and has been accepted with little or no question.² Convincing proof, then, will be required to change the accepted view. An historical examination of the subject furnishes three kinds of proof that "the encouragement and protection of manufactures" was at least as important as any other motive in securing the passage of the Act which laid the foundation of the tariff system.

I. The protective acts of the states furnished the experience on which the national legislators based their proceedings.

II. The measures taken by England to secure the monopoly of the carrying trade, in addition to the virtual monopoly already possessed in the manufacture of commodities which formed the bulk of American imports, had so angered and aroused the Amer-

¹ The current number of the Publications of the American Economic Association contains an account of the State Tariff Legislation and the conditions preceding the adoption of the Constitution. Readers who desire a more complete account of the beginnings of our tariff policy are referred to that monograph.

² Condé Raguet, *Principles of Free Trade*, p. 9, says: "Can any man seriously believe that in the year 1789 a duty of five per cent. could have been in any degree imposed for the purpose of encouraging the growth of manufactures? The idea is preposterous, and this will be manifest to all who reflect for a moment upon the fact that, at the period designated, agriculture was so clearly the natural and most profitable channel for capital and labor to flow in, that higher duties would have been required to divert them from that employment than are required at the present day. Let the idea, then, be discarded, as unworthy of reliance, that the Act of 1789 was, in the most remote degree, designed for the protection of manufactures. It could not possibly so have been, if the application of means to an end was a branch of knowledge possessed by those who framed it, and it is evident that the absurdity of so misplaced a reason was soon discovered, for it was omitted in the next Act on the same subject, and has never since been restored." (1835). Also see H. C. ADAMS, *Taxation in the U. S., 1789-1816*.

icans that the free-trade ideas of the early revolution vanished with the political freedom which made possible industrial and commercial freedom. A freedom to be found in the development of domestic resources, rather than in foreign trade carried on under the inequitable system of the eighteenth century.

III. The most important evidence of all is to be found in statements, by the men who made the tariff, of the motives which actuated them in imposing the duties. One needs no other evidence than that afforded by the debates in the first Congress on the tariff question, to establish the protective and retaliatory nature as well as the historical basis of the impost Act finally adopted. An account of this discussion will therefore be given.

Very soon after Congress first met, which was in April, 1789, Madison, recognizing the pressing need of revenue, offered a resolution calling for the adoption of the impost, which, from 1783 to 1789, Congress had, in vain, urged upon the states. He stated distinctly¹ that the object of the measure was to raise revenue, that it was to be a temporary expedient, to remain in force only till a comprehensive system could be arranged. The Act proposed had been discussed in each state, the opinions of the members as to its merits were already formed; and without the delay necessary for discussing and arranging a new measure, the one proposed might be adopted immediately, so as to secure a revenue from the spring importations. A number of members expressed their agreement to the plan proposed by Madi-

¹ *Annals of Congress*, i. 102.—Fisher Ames, in a letter to Mr. Minot, dated May 29, 1789, wrote: "One of his [Madison's] first speeches in regard to protecting commerce was taken out of Smith's *Wealth of Nations*. The principles of the book are excellent, but the application of them to America requires caution. I am satisfied, and could state some reasons to evince, that commerce and manufactures merit legislative interference in this country much more than would be proper in England. The drain that is making much of our people beyond the mountains, and the want of sufficient intercourse between the manufacturing and staple states, the British credit, British agents, etc., are among the circumstances which furnish those reasons. I am clearly of the opinion that the navigation and manufactures of America cannot well be too much encouraged." Ames's Works, i. p. 49. In some of his speeches, however, Madison made almost as many exceptions in favor of protection as Ames did. See his speech on pp. 113 seq., *Annals of Congress*.

son;¹ a few, because they favored revenue measures, others because they wished to obtain revenue by temporary duties until a more extensive tariff system could be devised. Fitzsimmons, on the other hand, recognizing the difficulty that must be encountered in changing a law once enacted, determined to forego the revenue which a temporary measure would produce, and to delay action until a system could be devised which would not only furnish the needed revenue, but would do what he thought even more important, namely, give encouragement to the industries which, under state aid, had already made considerable progress. He therefore moved to substitute for the plan offered by Madison the Pennsylvania system of protection.² Not as the Pennsylvania system did he offer it, but he proposed a list of articles, all of which, with six unimportant exceptions, were taxed by the state Act of 1785. Each item was to be discussed in "committee of the whole", and the rate fixed at the point agreed upon by the members, after comparing views, stating the experiences of the several states, and thus deciding what would work best for all.

Two plans were now before Congress. The revenue system of Madison apparently had everything in its favor. It was simple, well known, could be at once adopted,—a point of great importance, in view of the empty treasury and pressing debts,—and it would satisfy the wants of those who believed in a revenue tariff, pure and simple. The other measure, urged by Fitzsimmons, for protection, must overcome serious obstacles. It was new; it had not been recommended by Congress as a plan suitable for the whole Union, and had not been discussed in every state, as was the case with the revenue measure. Much time would be required to arrange a schedule, and, with all the precautions that could be used, the taxes would bear unequally on the people of the different states. Virginia and South Carolina especially feared injury to their chief industry, agriculture. Besides, knowledge of the workings of the state protective tariffs, on which the pro-

¹ *Annals of Congress*, i. pp. 103-105.

² *Ibid.* p. 106.

posed Act was based, was very meagre. Everything, indeed, except a strong desire for immediate protection, seemed to be against the plan of Fitzsimmons. The advocates of Madison's plan, however, did not oppose the other because of its protective features. They urged every other reason against its adoption, but not once did they say that protection to American industries would be unconstitutional, or even undesirable.

After full discussion and due deliberation, the protective duties proposed by Fitzsimmons were preferred to the revenue duties advocated by Madison. Thus, in the very beginning of United States tariff legislation, protection found the place which it has maintained with little interruption till the present day. Then, as now, Pennsylvania was the leader in seeking encouragement for domestic industries. The other states, however, were more willing followers in 1789 than they have been on some occasions since that date. It is true that objection was made by the members from South Carolina to the rates on certain articles, but in the House no voice was raised against the principle of protection. Even the South Carolina members asked that their great interest, agriculture, might receive protection. They were especially desirous to have the raising of hemp stimulated by a duty.

Perhaps the decision then made does not deserve more than the scant attention which it has received. It may not have modified our later tariff history perceptibly. It is possible that if the simple revenue measure advocated by Madison had been adopted then, it would have been superseded at a slightly later date by a protective Act similar to the one which secured favor in 1789. If such a result had followed, then, indeed, it was a matter of small moment whether the protective principle was incorporated in our tariff legislation in 1789 or in 1790. On the other hand, one can picture very different results following the rejection of a protective measure at the beginning of our government, especially if the rejection had been made, not for the purpose of securing immediate revenue, but because of a real opposition to the principle of protection.

Fitzsimmons was certainly right in thinking that protection could be secured more easily in the first tariff Act adopted than by a later effort to supersede a revenue measure which had given satisfaction. The effort might have proved in vain. The revenue measure might have been continued—duties increased to secure more revenue—no distinct avowal of protective purposes made—and no great difference in our early history would have resulted. But what would have been the effect of such action upon later times? If, at any time, in the opinion of Congress, protection had become clearly necessary, would the precedent set by the framers of the constitution have been broken? The constitution has seldom, if ever, prevented the adoption of any measure really desired by a great majority of the people. Neither can it be said that the rejection of a protective tariff by the first Congress would have proved such a measure to be unconstitutional. It would, however, have shown the interpretation which the founders of our government put upon the instrument which they had framed. Such an interpretation is entitled to great weight. It might have been considered sufficiently important by succeeding generations to turn the scale of tariff discussion against protection. A decision against the principle of protection in 1789, or even the adoption and continuation of a revenue measure for a few decades, would have left ground for the party of strict construction to say: "The general government has no power to levy taxes for protective purposes." The decision which was made certainly carries equal weight in favor of the position taken by the opposite party. Neither Madison nor any other member questioned the authority of the government which they had created to levy taxes high enough to give any desired protection, or even to prohibit importations for the same purpose.

If no record of the action then taken were obtainable beyond the fact that the revenue measure was voted down and the protective measure adopted, subsequent discussion on the constitutionality of protection might have assumed a tone somewhat different from that which it has taken. This one fact, however, has been overlooked in the attention given to the rates imposed.

Because they are low it is assumed that they were not meant to be protective. What the rates were is known much more generally than the manner in which they were adopted, hence the theory has been accepted which seems to be supported by the rates, considered either alone or in comparison with the high rates of the protective measures of the present day.

Fortunately, the evidence did not stop with the choice between the two measures. The Congress of that day did not merely decide upon the principles of a measure and then instruct a committee to prepare a bill in accordance with those principles, at least not on a question of first magnitude. Having determined that a protective tariff was necessary, the whole house proceeded to consider the details of such a measure.¹ Of course the vast amount of business which comes before Congress in these latter days does not permit the full and free discussion which it was then possible to give to each important question. A tariff bill, with its numerous details—with the necessity of adjusting rates to suit the needs of great industries—can be prepared more advantageously by a committee of experts than by a body so large and unwieldy as the United States Congress has grown to be. If, however, Congress could again become a deliberative body, and if the reasons for supporting or opposing the details of a tariff bill could be given as freely as were the reasons for laying protective duties on the few articles which were deemed worthy of protection in 1789, there would certainly be less room for charges that contributions to a campaign fund secure or maintain protection. It may be necessary to buy protection now. It certainly was not a century ago. Then the existence, or the possible existence, of any industry was deemed sufficient reason for the encouragement which was openly and avowedly given. Each industry which had been started in any state, and which gave the least promise of success, was championed by the members from that state. At times they argued that the whole Union would gain by whatever benefited a part; again, that it was necessary to

¹ *Annals of Congress*, i. p. 122.

render the nation independent of foreigners, even at some present sacrifice; or again, that what was lost to any section by consenting to duties on one article should be made up to it by protection to its own products. A free use of extracts from the speeches made in Congress is the best means of giving the reader a true conception of what was done and the grounds on which action was based.

Pennsylvania had already made some progress in the production of steel, and wished the general government to continue the aid which the state had given to the industry. In making this request, Clymer said: "The manufacture of steel in America is in its infancy; but as all the materials necessary to make it are the produce of almost every state in the Union, and as the manufacture is already established and attended with considerable success, I deem it prudent to emancipate our country from the manacles in which she has been held by foreign manufacturers. A furnace in Philadelphia, with a very small aid from the legislature of Pennsylvania, has made three hundred tons in two years, and now makes two hundred and thirty tons annually; and with a little further encouragement will supply enough for the consumption of the whole Union. I hope, therefore, that gentlemen will be disposed, under these considerations, to extend a degree of patronage to a manufacture which a moment's reflection will convince them is highly deserving of protection."¹

Local considerations at once entered. South Carolina did not, and in all probability would not, produce any steel, so her representatives could not consent to a burden for the benefit of the northern states. Their views were expressed by Tucker, who considered "the smallest tax on steel to be a burden on agriculture, which ought to be an interest most deserving of protection and encouragement." He favored a bounty on steel rather than any tax, but would agree to a duty of five per cent. "That was as great encouragement as ought to be granted. He would not oppose that being laid."²

¹ *Annals of Congress*, i. p. 147.

² *Ibid.* p. 148.

Fitzsimmons took a broader view. He thought that "local consideration should be placed aside. Every state would feel itself oppressed by a duty on particular articles, but when the whole system is completed the burden will be equal on all. . . . What operates to the benefit of one part in establishing useful institutions will eventually operate to the advantage of the whole."¹ The majority agreed with the reasoning of the Pennsylvania members and granted the desired protection.

Ames, of Massachusetts, desired that the manufacture of nails might receive encouragement. It was an industry of a very useful character,—did not require great capital or skill,—the product was clear profit, except the raw material, for nails were made in evenings and at unemployed moments. "The manufacture is prodigiously great in Massachusetts," he said, "and may be elsewhere if people will exert equal industry. It has grown up with little encouragement to an astonishing degree of perfection."²

Sherman favored the tax because every state could soon make enough for its own consumption. The Southern members again thought that the loss would be greater than the gain, and so opposed the tax.

Madison feared that a duty on nails would operate as a tax on ship building; and Lee feared that it would prove a burden on the improvement of estates. As usual, it was Tucker who made the most vigorous objection. "He judged from what had been said of the flourishing condition of the manufacture that it needed no encouragement. Why lay a duty on foreign nails if you can make them as good and as cheap? Will not the five per cent. duty, with freight and shipping charges, be sufficient encouragement? He thought so, and was averse to any other duty."³ To the objections of the Southern members Ames replied: "The commerce of America, particularly the Southern parts, has, by force of habit and long connection, been setting

¹ *Annals of Congress*, i. p. 148.

² *Ibid.* p. 156.

³ *Ibid.* p. 157.

strong upon the British coast; it will require the aid of the general government to divert it to a more natural course. Good policy and sound wisdom demonstrate the propriety of an interchange between the different parts of the Union. To procure this practical good some force is necessary. Laying a small duty upon foreign manufactures may induce, from motives of interest as well as inclination, one fellow-citizen to barter with or buy of another what he has long been accustomed to take from strangers. Allowing this remark its due weight, I have no doubt but that the committee will concur in laying a small protecting duty in favor of this manufacture. Again, from the situation of the manufacturer in Europe and the one in America, this encouragement is necessary. There stern necessity with her rod of iron compels his exertion; here invitation and encouragement are necessary; without them the infant manufacture droops, and its patron seeks, with success, a competency from our rich and fertile soil." The tax on nails was not a matter of vital importance to the central states because they were already able to meet competition. Fitzsimmons thought that the industry was sufficiently established to make nails better and cheaper than they could be imported. Nevertheless, he was willing to allow a small duty "because it conforms to the policy of the states, who think it proper in this manner to protect their manufactures."¹

Although not insisting upon a tax on nails, or any other commodity the manufacture of which was sufficiently established, Fitzsimmons was strongly in favor of an impost on beer. "This industry," said he, "is one very deserving of encouragement. . . . The small protecting duties laid by Pennsylvania have had a great effect toward the establishment of breweries; we no longer import this article, but, on the contrary, export considerable quantities, and in two or three years, with the fostering aid of government, will be able to furnish enough for the whole consumption of the United States."² He therefore moved a tax of nine cents per gallon. Lawrence, in seconding the motion, said:

¹ *Annals of Congress*, i. p. 158.

² *Ibid.* p. 144.

"I would have this duty so high as to give a decided preference to American beer; it will tend also to encourage agriculture, because the malt and hops consumed are the product of our own grounds."

Gale thought that nine cents would be too high, because it would give American brewers a monopoly. To this Sinnickson replied, laying down the doctrine as to the effect of domestic competition, which has been heard in all tariff debates since that day: "If the duty is high enough to effect a prohibition, the manufacture will increase and, of consequence, the price be lessened."¹ He also favored the tax because of the aid it would give to agriculture.

Madison was the next speaker, and came out clearly in favor of protection; he moved to fix the duty at eight cents. "He did not think this would give a monopoly, but hoped it would give such encouragement as to induce the manufacture to take deep root in every state in the Union. In this case it would produce the collateral good hinted at by Sinnickson, which was an object well worthy of being attended to. In the State of New York the article pays a duty of six cents on importation, and if brought in foreign vessels eight cents; and yet quantities of it are still imported, which proves that an eight cent tax will not amount to prohibition."² Meeting no serious opposition these views easily prevailed.

Fitzsimmons moved a duty of two cents per pound on candles. He thought that amount of protection desirable, because: "The manufacture of candles is an important industry and far advanced towards perfection. I have no doubt but in a few years we shall be able to furnish enough to supply every part of the continent. In Pennsylvania we have a duty of two pence per pound, and under the operation of this small encouragement the manufacture has gained considerable strength. We no longer import candles from Ireland and England, from whom, a few years ago, we took considerable quantities; the necessity of con-

¹ *Annals of Congress*, i. p. 145.

² *Ibid.*

tinuing those encouragements which the state legislatures have deemed proper, exists in a considerable degree ; therefore, it will be politic for the United States Government to continue such duties till their object is accomplished.”¹

Again the objector, Tucker, wished to have this article struck from the list. But Boudinot thought that considerable quantities of candles were imported from Russia and Ireland. “ They will be made cheaper than they can be imported if a small encouragement is held out by the general government, as the materials are to be had in abundance in our country.” Lawrence, too, favored a considerable tax, as “ it tended to cherish a valuable manufacture.”² And, without further objection, the duty of two cents per pound was agreed to.

In Maryland, a successful attempt to manufacture glass had been made, and Carroll thought that, with a small encouragement, the industry would be permanently established. He therefore asked for a duty of ten per cent., and this was given without objection.³

The manufacture of paper had grown to great importance in Pennsylvania, and, of course, must be encouraged to still further growth. Clymer informed the House “ that the paper mills in his state had become so numerous as to be able to supply a very extensive demand in that and neighboring states. They produce annually about 70,000 reams of various kinds, which is sold as cheap as it can be imported. The manufacture certainly is an important one, and having grown up under legislative influence it will be wise to continue it.”⁴ A duty of seven and a half per cent. was agreed to without debate.

Sherman thought that the tax on manufactured tobacco should be prohibitory, and on his motion a duty of six cents per pound was laid.⁵

¹ *Annals of Congress*, i. p. 146.

² *Ibid.*

³ *Ibid.* p. 167.

⁴ *Ibid.*

⁵ *Ibid.*

Connecticut wanted protection on the anchors she was making, and, at the request of Goodhue, the duty was fixed at seven and a half per cent.¹

The manufacture of wool cards had become of importance in Massachusetts and Pennsylvania. Ames said they were made in his section as good and as cheap as the imported ones, and Clymer said that the manufacture was carried to great perfection in his state. Enough could be furnished to supply the demand. The importation was therefore discouraged by a tax of fifty cents per dozen.²

Comment could not add anything to the clearness with which these extracts show the position taken by the members of the first Congress on the question of protection to manufactures.

As to the advisability of offering encouragement to agriculture there was a difference of opinion. The discussion of this question arose over a proposition, made by Madison, to lay a tax on hemp. The duty was proposed and advocated for the avowed purpose of aiding the farmers, and the representatives of the strictly agricultural sections strongly supported the measure. Burke, of South Carolina, Moore, White and Madison, of Virginia, and Heister and Scott, of western Pennsylvania, were especially anxious to secure this favor for their constituents. Their arguments may be summarized as follows : they were sure that the southern and western parts of the country were well calculated for the cultivation of hemp, and, with the encouragement now proposed, vast quantities would be brought in a year or two from the Ohio to Philadelphia. The inhabitants of the frontier region were expecting some encouragement and would be grateful for it. Indeed, it would be hard to persuade the farmer that his interest ought to be neglected while the artisan was aided. America was an agricultural country, and her great industry should receive due encouragement. If the legislature took no notice of this article the people would be led to believe that it was an object not worthy of encouragement, and the spirit

¹ *Annals of Congress*, i. p. 163.

² *Ibid.*

of cultivation would be damped ; whereas a small duty would show them that it was a desirable object and would lead to increased production, so that, in a short time, the domestic demand would be supplied and great quantities afforded for exportation. Hemp could bear the expense of transportation much better than any kind of grain, and even if it did not find an outlet through the eastern ports, great flat-boat loads of hemp would soon be floating down the Mississippi. Besides, a political consideration should influence the action of Congress in this matter. The pioneers, fast flocking to the rich valleys of the West, should be attached to the Union by the strong ties of financial interest. They should be made to feel that their interests would receive as much encouragement as was given to other classes. Then, too, it was but right to even things up ; manufacturers had been given the aid which they required, and the system of protection must be extended to all. It would be especially unwise to neglect the greatest of all American industries — agriculture.

To these arguments the representatives of the shipping and manufacturing interests replied somewhat as follows : They admitted that it might be possible to raise hemp here, both for domestic use and for exportation ; that, in fact, it had been done in colonial days ; and if the farmers had not found that they could raise other crops more profitably, they would have continued to grow hemp. A clear distinction, however, should be made between taxing manufactures and taxing raw materials. It would be much better to give a bounty, than to impose a protective duty, on an article so much used in a great and important industry. If hemp was taxed, the duties on cordage must be increased enough to compensate for the extra cost of the raw material. We were destined to become a great maritime nation, and no hindrance should be placed in the path of maritime advancement.¹

Between the two interests a compromise was effected. The manufacturing and commercial classes yielded to the agricultural, because the latter had submitted to be taxed for the pro-

¹ *Annals of Congress*, i. pp. 149-152.

motion of manufactures. But as it was too late for the crop of hemp to be increased before another year, the duties were not to be collected till December, 1790.

The wants of the manufacturers and agriculturists having been satisfied, the needs of the shipping interests next received attention. Here, again, South Carolina made a feeble objection to a tax that she feared would bear unequally upon her; but, without much discussion, a heavy discrimination was made in favor of American vessels. They paid but six cents per ton, those of nations with whom we had commercial treaties paid five times as much, while all other vessels were required to pay fifty cents per ton—more than eight times the amount paid by American vessels. Besides this heavy discrimination in the tonnage tax, a deduction of ten per cent. was made from the duties on all goods imported in American bottoms.¹

To secure to the American merchants the East Indies trade, which they have already opened up, under the encouragement of New York and Pennsylvania, all goods imported from China or India, in foreign vessels, were required to pay twelve and one-half per cent. Tea, imported directly from China in American vessels, paid six to twenty cents per pound, according to quality. If imported from Europe in American vessels, the duties ranged from eight to twenty-six cents; but if imported in foreign vessels, the tax was from fifteen to forty-five cents per pound. This was certainly a good degree of protection; and the reason for its existence was given by Fitzsimmons in the following language: "The tax is meant, not only for revenue, but as a regulation of commerce highly advantageous to the United States. The merchants of this country have, from a variety of circumstances, and finding their trade restrained and embarrassed, been under the necessity of exploring channels to which they were heretofore unaccustomed. At length they have discovered one which bids fair to increase our national importance and prosperity, while at the same time it is lucrative to the persons engaged in its prosecution. I mean, sir, the trade to China and

¹ *Annals of Congress*, i, pp. 168-169.

the East Indies. I have no doubt but what it will receive the encouragement of the general government for some time to come. There is scarcely any direct intercourse of this nature but what requires some assistance in the beginning; it is peculiarly necessary in our case, from the jealousy subsisting in Europe of this infant branch of our commerce. It has been thought proper, under some of the state governments, to foster and protect a direct communication with India. I hope the government of the United States has an equal disposition to give this trade their encouragement. The legislature of Pennsylvania granted aid by discriminating in the manner proposed, and with like aid from the government of the United States, the merchants may no longer fear the machinations of the opulent companies of Europe.”¹

One other industry remained, and it, too, was given attention at the request of the Virginia members. Bland stated that there were coal mines just opened in Virginia, capable of supplying the whole United States; and if some restraint was laid on the importation of coal, these mines might be worked to advantage. He therefore moved a duty of three cents per bushel. Hartley, of Pennsylvania, feared that a tax on coal would discourage manufactures, and moved to reduce it to one cent. Parker replied that less than three cents would not answer, because large quantities came from England as ballast, and could be sold so cheap as to prevent working the Virginia mines. “He hoped, if the committee was disposed to encourage them, they would proportion the means to the end; a duty of one cent would be void, nothing under three cents could answer the purpose. He hoped, therefore, that the committee would agree to three cents.”² The committee agreed.

Duties were laid on several other articles, but it is not necessary to go through the whole list here. The same arguments were offered over and over again, and the result was always the same. Each member asked for and secured protection on the

¹ *Annals of Congress*, i. p. 170.

² *Ibid.* p. 171.

articles produced in his state, and each member opposed taxes which he thought were likely to prove burdensome to his constituents. Constant reference was made to the duties of the states to illustrate the probable working of the national taxes. Naturally, the states which were more densely populated, and had already made some progress in manufactures, asked for the greatest amount of protection. Equally natural was it that South Carolina and other thinly settled states, whose products found a ready market in foreign countries, and whose wants were supplied almost entirely by imports, should object to taxes on imports which they did not produce at all. At times these objections were vigorous. Often was it stated that the South was being overburdened ; that the weight of the impost was greater than any benefit she would derive from the Union. But among all the objections urged in the House, against the duty on any particular article, not once was the constitutionality of protection questioned. And, as before stated, both South Carolina and Virginia sought protection on the few articles where it was thought likely to prove beneficial to them. From Massachusetts, also, came vigorous protests, when her pet industry, the manufacture of rum, was threatened by a high tax on molasses. Massachusetts insisted, with all her strength, that the raw material for so important an industry as the making of rum should not be taxed ; or, if taxed, the rate must be low. No one objected to giving encouragement to any industry which it was desirable to foster, but the product of the distillery was so pernicious that many members were opposed to allowing it any encouragement. Madison led the forces who objected to aiding this industry by a low tax on molasses and a drawback if the rum was exported ; but all the strength he could command was not sufficient to prevent the protection of this, the most undesirable of American industries. In nothing is the strength of the protection sentiment more clearly shown. It seems that any industry, no matter what, no matter how undesirable its product might be, was then deemed worthy of protection.¹

¹ *Annals of Congress*, i. pp. 173-174.

No complete record of the debates in the Senate was kept, so the evidence of the action there is only fragmentary. The notes taken by William Maclay, a senator from Pennsylvania, give some account of the discussion in the Senate. He was an ardent advocate of protection, and wrote down the arguments which he used in support of the measure. Vested interests had some weight with him. He thought the United States government was bound to fulfill the engagements which the protective Acts of the states had virtually made to the manufacturers.¹ In his journal for June 2, he writes: "After some preliminary business, proceeded on the impost bill, without much opposition, till we came to fifteen or sixteen articles which all stood at seven and a half per cent. The most of these articles stood in the old protecting duties of Pennsylvania at twelve per cent. I feared much the spirit of reduction would get into the opposers of the impost, and that they would be for lowering everything. From this sole motive I would have moved an augmentation, by way of securing the duty where it was. However, here I had better ground. I set out with naming over the greater part of the articles on which the protecting duties of Pennsylvania were twelve and a half per cent. and thirteen per cent. in New York. I reasoned from the effect of these duties on the promoting the manufactures. But by the present law, the manufacturers would stand on worse ground by five per cent. than they had done under state laws; and although the United States were not absolutely obliged to make good the engagements of the states to individuals, yet, as the individuals had embarked their property in these manufactures, depending on state laws, I thought it wrong to violate those laws without absolute necessity. I was, as usual, opposed by the Southern people."²

Maclay's journal also furnishes interesting information in regard to the opposition which had to be overcome. This seems to have been actuated by self-interest entirely, but from two different sources. The importers and merchants wished to secure

¹ *Sketches of Debates*, p. 63.

² *Ibid.* p. 68.

as large a stock of goods as possible before the Tariff Act came into operation. Goods were stored in New Jersey where no duties were paid, and when the state tariffs were superseded by that of the United States, they could be taken into New York or Pennsylvania for sale.¹ The price of imported goods was raised in anticipation of the duties so that "a million dollars was paid by the people which did not find its way into the treasury."² This opportunity for extra profit made the merchants desirous of delaying the passage of the impost act as long as possible. What means were used to accomplish this purpose, the journal does not state. It merely says: "Remarkable influence is exerted to delay the bill till they get in all their summer goods."³

The other source of opposition mentioned by Maclay was not so purely personal and selfish as was that of the merchants. It was sectional rather than individual. Each section and, to a less degree, each state, sought to have the tariff arranged in its own interest. The Middle States may have been in a position to gain more and lose less than those at the North or South, or they may have been more patriotic, or the difference may have existed only in the mind of the writer, but Maclay certainly credited them with more liberal action. After discussing the question at some length in his journal, he wrote: "I will now memorandum one remark. The senators from New Jersey, Pennsylvania, Delaware and Maryland, in every act, seemed desirous of making the impost productive, both as to revenue and effective for the encouragement of manufactures, and seemed to consider the whole of the imposts (salt excepted) much too low. Articles of luxury, many of them would have raised one-half. But the members both from the North and more particularly from the South, were ever in a flame when any articles were brought forward which were in considerable use among them."⁴

In the Senate, as in the House, the members from South Carolina were most constant and most violent in opposition. Butler went far beyond Tucker, and even foretold South Carolina's

¹ *Sketches of Debates*, p. 57.

² *Ibid.* p. 70.

³ *Ibid.* p. 74.

⁴ *Ibid.* p. 77.

action of 1832. "He flamed away and threatened a dissolution of the Union with regard to his state, as sure as God was in the firmament. He scattered his remarks over the whole impost bill, calling it partial, oppressive, and solely calculated to oppress South Carolina. His state would live free or die glorious, and so on. He even moved to strike indigo from the tariff list and said Carolina was not obliged to us for taking notice of her affairs."¹ Butler seems to have been alone in carrying state interest and state pride to this violent extreme. The other senators got what they could for their own states, and were willing to make concessions to others. Professor Sumner calls the Act of 1789 a grab game in which each interest took what it could get, a log-rolling scheme in which each helped the other.² From the standpoint of the extreme advocate of free trade, this view may be justified. But the men who made the Tariff of 1789 were not ashamed of their action. They gave their reasons freely. They believed themselves justified in using the taxing power for any purpose which would contribute to the welfare and independence of the nation. They had confidence in and love for America, and wished to build up American industries, even at some present sacrifice.

Washington had swung entirely over to Hamilton's views, and in messages to Congress urged the encouragement of domestic industries. His letters, too, show what progress had been made and the attitude which was generally taken. In writing to Lafayette a few months before the Act of 1789 was passed, he said: "Though I would not force the introduction of manufactures by extravagant encouragements, and to the prejudice of agriculture, yet I conceive much might be done in that way by women, children and others, without taking one really necessary hand from the tilling of the earth. Certain it is, great savings are already made in many articles of apparel, furniture and consumption. Equally certain it is, that no diminution in agriculture has taken place at the time when greater and more substan-

¹ *Sketches of Debates*, p. 77.

² *History of Protection*, p. 23.

tial improvements in manufactures are making, than were ever before known in America. In Pennsylvania they have attended particularly to the fabrication of cotton cloths, hats and all kinds of leather. In Massachusetts, they are establishing factories of duck, cordage, glass and several other useful and extensive branches. The number of shoes made in one town and nails in another is incredible. In that state and Connecticut, there are also factories of superfine and other broadcloths. I have been writing to our friend, General Knox, this day, to procure me homespun broadcloth of the Hartford fabric, to make a suit of clothes for myself. I hope it will not be a great while before it will be unfashionable for a gentleman to appear in any other dress. Indeed, we have been too long subject to British prejudices."¹

He wrote to Jefferson in a similar strain, and said: "A desire of encouraging whatever is useful and beneficial seems now generally to prevail."² In two letters he suggested to Governor Randolph a plan by which Virginia should increase the raising of sheep and foster the woolen industry. His interest had been aroused and the plan suggested by his tour through the New England States and a sight of what had been accomplished there. He wished his own state to follow the example of Connecticut.³

Protection seems to have proved beneficial to the new nation, for it soon came to command universal support. In 1790 Washington wrote: "The number of new manufactures introduced in one year is astonishing."⁴ And in his message to Congress the same year he said: "The advancement of agriculture, commerce and manufactures, by all proper means, will not, I trust, need recommendation. But I cannot forbear intimating to you the expediency of giving effectual encouragement, as well to the introduction of new and useful inventions from abroad, as to the exertion of skill and genius in producing them at home."⁵

The whole tone of the controversy had changed, or better, the controversy had yielded to a general agreement to encour-

¹ Ford's *Washington*, II, p. 353.

² *Ibid.* p. 358.

³ *Ibid.* p. 446.

⁴ *Ibid.* p. 461.

⁵ *Ibid.* p. 457.

age manufactures in this country. The ten years from 1780 to 1790 furnish a most instructive study of the growth and change of feeling on the question of commercial regulations and restrictions. The decade may be divided into three periods. During the first the old colonial ideas of agriculture as the great industry, and a commercial dependence on Europe, held sway. The gain which political independence had brought was to be realized by freedom to select the best market in Europe instead of being confined to one. There was almost no thought that America could become a manufacturing nation, as independent industrially as she had become politically. Trade on favorable terms would be possible, because the products of our soil were in demand abroad, and to get them the nations of Europe would consent to just and equal terms. The narrow and unjust restrictions, which had been maintained in every country in Europe for centuries, would be abandoned as soon as the example of the United States proved the benefits of absolute free trade. Such were the views held by Americans till 1784, and all the duties imposed were merely light revenue taxes which the war debts made necessary.

Bitter experience dispelled this dream and showed that neither justice, nor consideration for the rights of others, governed nations in their commercial intercourse. Then measures were taken to compel other nations to act in accordance with the principles of justice. Restrictions were met by counter restrictions in the hope that a system of free trade would be secured.

During the second period, then, a spirit of retaliation prevailed, a feeling that other nations must be treated as they treated America until they would adopt more amicable arrangements. It was thought that the importance of our products, especially to England, would soon bring her to terms, and freedom of trade could be secured. Domestic industries were fostered only as a secondary matter, a means of rendering us more strong in the commercial struggle. This period lasted till 1786 or 1787. But, as the chance of success in retaliatory measures

became less, as the nations continued firm in the maintenance of their restrictive measures, and as the growth of American industries rendered us daily more independent, men began to see a possibility of broader and stronger development of America than had before seemed attainable. The industries might by some further aid be rendered permanent, and, with the establishment of each new industry, dependence on the Old World was lessened. A new patriotism was awakened, and America began to take measures to foster her industrial growth. This stage had been reached when the United States constitution was adopted. Indeed to secure these objects was a chief end sought in adopting the constitution. Then is it strange that almost the first act of the new congress should have been a measure for the protection and encouragement of American industries—an act to render political independence secure by making industrial independence possible?

If the conditions existing in 1789 had not been changed by unforeseen events, the industrial development of the United States would have continued as it had begun. Manufactures would have grown up twenty years earlier than they did, and from the very beginning of our history the development would have been along the lines which have been followed since 1816, or rather 1808. What effect this would have had upon our position among the nations of the world it is impossible to say. The great expansion of commerce from 1793 to 1807, brought much wealth to this country which enabled the industrial development to be more rapid when it did come than it could have been in 1790. It also gave our people broader views, rendered them national rather than provincial in their feelings, and taught them that there were other peoples besides those in America.

All this time, however, England was building factories and gaining the leadership in the manufacturing and commercial world which she has ever since maintained. Whether the United States would have been a stronger rival of England if the industrial development which was well begun in 1790 had not been interrupted, is a purely speculative question. What the history

of the time does indicate is, that industrial conditions are more effective in securing laws than laws are in changing industrial conditions. The state of American commerce and manufactures from 1784 to 1790, certainly called for restrictive and protective legislation and secured it. But with a change of conditions the protective features of the tariff were not strengthened. So long as the development was purely commercial all changes made in the tariff were for revenue purposes, and it was not till the close of the war of 1812, when the industrial conditions following the Revolution were repeated on an exaggerated scale, that protective legislation was again sought.

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