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A

LETTER

TO THE

HON. HARRISON GRAY OTIS,

A MEMBER OF THE SENATE OF MASSACHUSETTS,

ON THE

PRESENT STATE OF OUR NATIONAL AFFAIRS

WITH REMARKS

UPON

MR. PICKERING'S LETTER

TO THE

GOVERNOR OF THE COMMONWEALTH.

.....

BY JOHN QUINCY ADAMS.

.....

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1808.

A

LETTER

TO THE

HON. HARRISON GRAY OTIS.

WASHINGTON, MARCH 31, 1808.

Dear Sir,

I HAVE received from one of my friends in Boston a copy of a printed pamphlet, containing a letter from Mr. Pickering to the Governor of the Commonwealth, intended for communication to the Legislature of the State, during their Session, recently concluded. But this object not having been accomplished, it appears to have been published by some friend of the writer, whose inducement is stated, no doubt truly, to have been the importance of the matter discussed in it, and the high respectability of the author.

The subjects of this letter are the Embargo, and the differences in controversy between our Country and Great-Britain—Subjects upon which it is my misfortune, in the discharge of my duties as a Senator of the United States to differ from the opinions of my Colleague. The place where the question upon the first of them, in common with others of great national concern, was between him and me, in our official capacities a proper object of discussion, was the Senate of the Union—There, it was discussed, and, as far as the constitutional authority of that body extended, there it was decided—Having obtained alike the concurrence of the other branch of the national Legislature, and the approbation of the President, it became the Law of the Land, and as such I have considered it entitled to the respect and obedience of every virtuous citizen.

From these decisions however, the letter in question is to be considered in the nature of an appeal; in the first instance, to our common constituents, the Legislature of the State—and in the second, by the

publication, to the people. To both these tribunals I shall always hold myself accountable for every act of my public life. Yet, were my own political character alone implicated in the course which has in this instance been pursued, I should have forborne all notice of the proceeding, and have left my conduct in this, as in other cases, to the candour and discretion of my Country.

But to this species of appeal, thus conducted, there are some objections on Constitutional grounds, which I deem it my duty to mention for the consideration of the public. On a statement of circumstances attending a very important act of national legislation, a statement which the writer undoubtedly believed to be true, but which comes only from one side of the question and which, I expect to prove in the most essential points erroneous, the writer with the most animated tone of energy calls for the *interposition* of the commercial States, and asserts that "nothing but their sense, clearly and emphatically expressed, will save them from ruin." This solemn and alarming invocation is addressed to the Legislature of Massachusetts, at so late a period of their Session, that had it been received by them, they must have been compelled either to act upon the views of this representation, without hearing the counter statement of the other side, or seemingly to disregard the pressing interest of their constituents, by neglecting an admonition of the most serious complexion. Considering the application as a precedent, its tendency is dangerous to the public. For on the first supposition, that the Legislature had been precipitated to act on the spur of such an instigation, they must have acted on imperfect information, and under an excitement, not remarkably adapted to the composure of safe deliberation. On the second they would have been exposed to unjust imputations, which at the eve of an election might have operated in the most inequitable manner upon the characters of individual members.

The interposition of one or more State Legislatures, to controul the exercise of the powers vested by

the general Constitution in the Congress of the United States, is at least of questionable policy. The views of a State Legislature are naturally and properly limited in a considerable degree to the particular interests of the State. The very object and formation of the *National* deliberative assemblies was for the compromise and conciliation of the interests of all—of the whole nation. If the appeal from the regular, legitimate measures of the body where the whole nation is represented, be proper to one State Legislature, it must be so to another. If the commercial States are called to interpose on one hand, will not the agricultural States be with equal propriety summoned to interpose on the other? If the East is stimulated against the West, and the Northern and Southern Sections are urged into collision with each other, by appeals from the acts of Congress to the respective States—*in what are these appeals to end*?

It is undoubtedly the right, and may often become the duty of a State Legislature, to address that of the Nation, with the expression of its wishes, in regard to interests peculiarly concerning the State itself. Nor shall I question the right of every member of the great federative compact to declare its own sense of measures interesting to the nation at large. But whenever the case occurs that this sense should be "clearly and emphatically" expressed, it ought surely to be predicated upon a full and impartial consideration of the whole subject—not under the stimulus of a one sided representation—far less upon the impulse of conjectures and suspicions. It is not through the medium of personal sensibility, nor of party bias, nor of professional occupation, nor of geographical position, that *the whole Truth* can be discerned, of questions involving the rights and interests of this extensive Union. When their discussion is urged upon a State Legislature, the first call upon its members should be to cast all their feelings and interests as the Citizens of a single State into the common Stock of the National concern.

Should the occurrence upon which an appeal is

made from the Councils of the Nation, to those of a single State be one, upon which the representation of the State had been divided, and the member who found himself in the minority, felt impelled by a sense of duty to invoke the interposition of his Constituents, it would seem that both in justice to them, and in candour to his colleague, some notice of such intention should be given to him, that he too might be prepared to exhibit his views of the subject upon which the difference of opinion had taken place; or at least that the resort should be had, at such a period of time as would leave it within the reach of possibility for his representations to be received, by their Common Constituents, before they would be compelled to decide on the merits of the case.

The fairness and propriety of this course of proceeding must be so obvious, that it is difficult to conceive of the propriety of any other. Yet it presents another inconvenience which must necessarily result from this practice of appellate legislation—When one of the Senators from a State proclaims to his constituents that a particular measure, or system of measures which has received the vote and support of his colleague, are pernicious and destructive to those interests which both are bound by the most sacred of ties, with zeal and fidelity to promote, the denunciation of the measures amounts to little less than a denunciation of the man. The advocate of a policy thus reprobated must feel himself summoned by every motive of self-defence to vindicate his conduct : and if his general sense of his official duties would bind him to the industrious devotion of his whole time to the public business of the Session, the hours which he might be forced to employ for his own justification, would of course be deducted from the discharge of his more regular and appropriate functions. Should these occasions frequently recur, they could not fail to interfere with the due performance of the public business. Nor can I forbear to remark the tendency of such antagonizing appeals to distract the Councils of the State in its own Legislature, to destroy its influence, and

expose it to derision, in the presence of its sister States, and to produce between the colleagues themselves mutual asperities and rancours, until the great concerns of the nation would degenerate into the puny controversies of personal altercation.

It is therefore with extreme reluctance that I enter upon this discussion. In developing my own views and the principles which have governed my conduct in relation to our foreign affairs, and particularly to the Embargo, some very material differences in point of fact as well as of opinion, will be found between my statements, and those of the letter, which alone can apologize for this. They will not, I trust, be deemed in any degree disrespectful to the writer. Far more pleasing would it have been to me, could that honest and anxious pursuit of the policy best calculated to promote the honour and welfare of our Country, which, I trust, is felt with equal ardour by us both, have resulted in the same opinions, and have given them the vigour of united exertion. There is a candour and liberality of conduct and of sentiment due from associates in the same public charge, towards each other, necessary to their individual reputation, to their common influence, and to their public usefulness. In our republican Government, where the power of the nation consists alone in the sympathies of opinion, this reciprocal deference, this open hearted imputation of honest intentions, is the only adamant at once attractive and impenetrable, that can bear, unshattered, all the thunder of foreign hostility. Ever since I have had the honour of a seat in the National Councils, I have extended it to every department of the Government. However differing in my conclusions, upon questions of the highest moment, from any other man, of whatever party, I have never, upon suspicion, imputed his conduct to corruption. If this confidence argues ignorance of public men and public affairs, to that ignorance I must plead guilty. I know, indeed enough of human nature to be sensible that vigilant observation is at all times, and that suspicion may occasionally become necessary,

upon the conduct of men in power. But I know as well that confidence is the only cement of an elective government—Election is the very test of confidence—and its periodical return is the constitutional check upon its abuse; of which the electors must of course be the sole judges. For the exercise of power, where man is free, confidence is indispensable—and when it once totally fails—when the men to whom the people have committed the application of their force, for their benefit, are to be presumed the vilest of mankind, the very foundation of the social compact must be dissolved. Towards the Gentleman whose official station results from the confidence of the same Legislature, by whose appointment I have the honour of holding a similar trust, I have thought this confidence peculiarly due from me, nor should I now notice his letter, notwithstanding the disapprobation it so obviously implies at the course which I have pursued in relation to the subjects of which it treats, did it not appear to me calculated to produce upon the public mind, impressions unfavourable to the rights and interests of the nation.

Having understood that a motion in the Senate of Massachusetts was made by you, requesting the Governor to transmit Mr. Pickering's letter to the Legislature, together with such communications, relating to public affairs, as he might have received from me, I avail myself of that circumstance, and of the friendship which has so long subsisted between us, to take the liberty of addressing this letter, intended for publication, to you. Very few of the facts which I shall state will rest upon information peculiar to myself—Most of them will stand upon the basis of official documents, or of public and undisputed notoriety. For my opinions, though fully persuaded, that even where differing from your own, they will meet with a fair and liberal judge in you, yet of the public I ask neither favour nor indulgence. Pretending to no extraordinary credit from the authority of the writer, I am sensible they must fall by their own weakness, or stand by their own strength.

The first remark which obtrudes itself upon the mind, on the perusal of Mr. Pickering's letter is, that in enumerating all the *pretences* (for he thinks there are no causes for the Embargo, and for a War with Great Britain, he has totally omitted the British orders of Council of November 11, 1807, those orders, under which millions of the property of our fellow citizens, are now detained in British hands, or confiscated to British captors, those orders, under which tenfold as many millions of the same property would have been at this moment in the same predicament, had they not been saved from exposure to it by the Embargo, those orders, which if once submitted to and carried to the extent of their principles, would not have left an inch of American canvass upon the ocean, but under British licence and British taxation. An attentive reader of the letter, without other information would not even suspect their existence. They are indeed in one or two passages, faintly, and darkly alluded to under the justifying description of " the or ers of the British Government, *retaliating* the French imperial decree :" but as causes for the Embargo, or as possible causes or even *pretences* of War with Great Britain, they are not only unnoticed, but their very existence is by direct implication denied.

It is indeed true, that these orders were not officially communicated with the President's Message recommending the Embargo. They had not been officially received—But they were announced in several paragraphs from London and Liverpool Newspapers of the 10th, 11th and 12th of November, which appeared in the National Intelligencer of 18th December, the day upon which the Embargo Message was sent to Congress. The British Government had taken care that they should not be authentically known before their time—for the very same newspapers which gave this inofficial notice of these orders, announced also the departure of Mr. Rose, upon a special mission to the United States. And we now know that of these all-devouring instruments of rapine, Mr. Rose was not even informed.—His mission was professedly

a mission of conciliation and reparation for a flagrant —enormous—acknowledged outrage.—But he was not sent with these orders of Council in his hands.—His text, was the disavowal of Admiral erkley's conduct—The Commentary was to be discovered on another page of the British ministerial policy—On the face of Mr. Rose's instructions, these orders of Council were as invisible, as they are on that of Mr. Pickering's letter.

They were not merely without official authenticity. Rumours had for several weeks been in circulation, derived from English prints, and from private correspondences, that such orders were to issue; and no inconsiderable pains were taken here to discredit the fact. Assurances were given that there was reason to believe no such orders to be contemplated. Suspicion was lulled by declarations equivalent nearly to a positive denial: and these opiates were continued for weeks after the Embargo was laid, until Mr. Erskine received instructions to make the official communication of the orders themselves, in their proper shape, to our Government.

Yet, although thus unauthenticated, and even although thus in some sort denied, the probability of the circumstances under which they were announced, and the sweeping tendency of their effects, formed to my understanding a powerful motive, and together with the papers sent by the President, and his express recommendation, a decisive one, for assenting to the Embargo. As a precautionary measure, I believed it would rescue an immense property from depredation, if the orders should prove authentic. If the alarm was groundless, it must very soon be disproved, and the Embargo might be removed with the danger.

The omission of all notice of these facts in the pressing enquiries "why the Embargo was laid?" is the more surprising, because they are of all the facts, the most material, upon a fair and impartial examination of the expediency of that Act, when it passed—And because these orders, together with the subsequent "retaliating decrees of France and Spain, have fur-

nished the only reasons upon which I have acquiessed in its continuance to this day. If duly weighed, they will save us the trouble of resorting to jealousies of secret corruption, and the imaginary terrors of Napolean for the real cause of the Embargo. These are fictions of foreign invention—The French Emperor had *not* declared that he would have no neutrals—He had *not* required that our ports should be shut against British Commerce—but the orders of Council if submitted to would have degraded us to the condition of Colonies. If resisted would have fattened the wolves of plunder with our spoils. The Embargo was the only shelter from the Tempest—The last refuge of our violated Peace.

I have indeed been myself of opinion that the Embargo, must in its nature be a temporary expedient, and that preparations manifesting a determination of resistance against these outrageous violations of our neutral rights ought at least to have been made a subject of serious deliberation in Congress. I have believed and do still believe that our internal resources are competent to the establishment and maintainance of a naval force public and private, if not fully adequate to the protection and defence of our Commerce, at least sufficient to induce a retreat from these hostilities and to deter from a renewal of them, by either of the warring parties; and that a system to that effect might be formed, ultimately far more economical, and certainly more energetic than a three years Embargo. Very soon after the closure of our Ports, I did submit to the consideration of the Senate, a proposition for the appointment of a comittee to institute an enquiry to this end. But my resolution met no encouragement. Attempts of a similar nature have been made in the House of Representatives, but have been equally discountenanced, and from these determinations by decided majorities of both houses, I am not sufficiently confident in the superiority of my own Wisdom to appeal, by a topical application to the congenial feelings of any one—not even of my own native Section of the Union.

The Embargo, however, is a restriction always under our own controul. It was a measure altogether of defence, and of experiment—If it was injudiciously or over-hastily laid, it has been every day since its adoption open to a repeal: if it should prove ineffectual for the purposes which it was meant to secure, a single day will suffice to unbar the doors Still believing it a measure justified by the circumstances of the time, I am ready to admit that those who thought otherwise may have had a wiser foresight of events, and a sounder judgment of the then existing state of things than the majority of the National Legislature, and the President. It has been approved by several of the State Legislatures, and among the rest by our own. Yet of all its effects we are still unable to judge with certainty. It must still abide the test of futurity. I shall add that there were other motives which had their operation in contributing to the passage of the act, unnoticed by Mr. Pickering, and which having now ceased will also be left unnoticed by me. The orders of Council of 11th Nov. still subsist in all their force; and are now confirmed, with the addition of *taxation*, by act of Parliament.

As they stand in front of the real causes for the Embargo, so they are entitled to the same pre-eminence in enumerating the causes of hostility, which the British Ministers are accumulating upon our forbearance. They strike at the root of our independence. They assume the principle that we shall have no commerce in time of war, but with her dominions, and as tributaries to her. The exclusive confinement of commerce to the mother country, is the great principle of the modern colonial system; and should we by a dereliction of our rights at this momentous stride of encroachment surrender our commercial freedom without a struggle, Britain has but a single step more to take, and she brings us back to the stamp act and the tea tax.

Yet these orders—thus fatal to the liberties for which the sages and heroes of our revolution toiled and bled—thus studiously concealed until the mo-

ment when they burst upon our heads—thus issued at the very instant when a mission of atonement was professedly sent—in these orders we are to see nothing but a "retaliating order upon France"—in these orders, we must not find so much as a cause—nay not so much as a pretence, for complaint against Britain.

To my mind, Sir, in comparison with those orders, the three causes to which Mr. Pickering explicitly limits our grounds for a rupture with England, might indeed be justly denominated *pretences*—in comparison with them, former aggressions sink into insignificance. To argue upon the subject of our disputes with Britain, or upon the motives for the Embargo, and keep them out of sight, is like laying your finger over the *unit* before a series of noughts, and then arithmetically proving that they all amount to nothing.

It is not however in a mere omission, nor yet in the history of the Embargo, that the inaccuracies of the statement I am examining have given me the most serious concern—it is in the view taken of the questions in controversy between us and Britain. The wisdom of the Embargo is a question of great, but transient magnitude, and omission sacrifices no national right. Mr. Pickering's object was to dissuade the nation from a war with England, into which he suspected the administration was plunging us, under French compulsion. But the tendency of his pamphlet is to reconcile the nation, or at least the commercial States, to the servitude of British protection, and war with all the rest of Europe. Hence England is represented as contending for the common liberties of mankind, and our only safe-guard against the ambition and injustice of France. Hence all our sensibilities are invoked in her favour, and all our antipathies against her antagonist. Hence too all the subjects of differences between us and Britain are alledged to be on our part mere *pretences*, of which the *right* is unequivocally pronounced to be *on her side*. Proceeding from a Senator of the United States, specially charged as a member of the executive with the maintenance

of the nation's rights, against foreign powers, and at a moment extremely critical of pending negotiation upon all the points thus delineated, this formal *abandonment* of the American cause, this summons of unconditional surrender to the pretensions of our antagonist, is in my mind highly alarming. It becomes therefore a duty to which every other consideration must yield to point out the errors of this representation. Before we strike the standard of the nation, let us at least examine the purport of the summons.

And first, with respect to the impressment of our seamen. We are told that "the taking of British seamen found on board our merchant vessels, by British ships of war, is agreeably to a *right*, claimed and exercised for ages." It is obvious that this claim and exercise of ages, could not apply to us, as an independent people. If the right was claimed and exercised while our vessels were navigating under the British flag, it could not authorize the same claim when their owners have become the citizens of a sovereign state. As a relict of colonial servitude, whatever may be the claim of Great Britain, it surely can be no ground for contending that it is entitled to our submission.

If it be meant that the right has been claimed and exercised for ages over the merchant vessels of other nations, I apprehend it is a mistake. The case never occurred with sufficient frequency to constitute even a practice, much less a right. If it had been either, it would have been noticed by some of the writers on the laws of nations. The truth is, the question arose out of American Independence—from the severance of one nation into two. It was never made a question between any other nations. There is therefore no right of prescription.

But, it seems, it has also been *claimed and exercised*, during the whole of the three Administrations of our national Government. And is it meant to be asserted that this claim and exercise constitute a right? If it is, I appeal to the uniform, unceasing and urgent remonstrances of the three administrations—I appeal not only to the warm feelings, but cool justice of the

American People—nay, I appeal to the sound sense and honourable sentiment of the British nation itself, which, however, it may have submitted at home to this practice, never would tolerate its sanction by law, against the assertion. If it is not, how can it be affirmed that it is on our part a mere pretence?

But the first merchant of the United States, in answer to Mr. Pickering's late enquiries has informed him that since the affair of the Chesapeake there has been no cause of complaint— that he could not find a single instance where they had taken one man out of a merchant vessel. Who it is, that enjoys the dignity of first merchant of the United States we are not informed. But if he had applied to many merchants in Boston as respectable as any in the United States, they could have told him of a valuable vessel and cargo, totally lost upon the coast of England, late in August last, and solely in consequence of having had two of her men, native Americans taken from her by impressment, two months after the affair of the Chesapeake.

On the 15th of October, the king of England issued his proclamation, *commanding* his naval officers, to impress his subjects from neutral vessels. This proclamation is represented as merely "requiring the return of his subjects, the seamen especially, from foreign countries," and then "it is an acknowledged principle that every nation has a right to the service of its subjects in time of war." Is this, Sir, a correct statement either of the Proclamation, or of the question it involves in which *our* right is concerned? The king of England's right to the service of his subjects in time of war is nothing to us. The question is, whether he has a right to seize them forcibly on board of our vessels while under contract of service to our citizens, within our jurisdiction upon the high seas? And whether he has a right expressly to command his naval officers so to seize them--Is this an acknowledged principle? certainly not. Why then is this Proclamation described as founded upon uncontested principle? and why is the command, so justly offensive to us, and so mischievous as it might then have been made in execution, altogether omitted?

But it is not the taking of British subjects from our vessels, it is the taking under colour of that pretence our own, native American citizens, which constitutes the most galling aggravation of this merciless practice. Yet even this, we are told is but a pretence--for three reasons.

1. Because the number of citizens thus taken, is *small.*

2. Because it arises *only* from the impossibility of distinguishing Englishmen from Americans.

3. Because, such impressed American citizens are delivered up, on duly authenticated proof.

1. Small and great in point of numbers are relative terms. To suppose that the native Americans form a small proportion of the whole number impressed is a mistake--The reverse is the fact. Examine the official returns from the Department of State. They give the names of between four and five thousand men impressed since the commencement of the present War. Of which number, not one fifth part were British Subjects--The number of naturalized mericans could not amount to one tenth,--I hazard little in saying that more than three fourths were native Americans. If it be said that some of these men, though appearing on the face of the returns American Citizens, were really British subjects, and had fraudulently procured their protections ; I reply that this number must be far exceeded by the cases of Citizens impressed, which never reach the Department of State. The American Consul in London estimates the number of impressments during the War at nearly three times the amount of the names returned. If the nature of the offence be considered in its true colours, to a people having a just sense of personal liberty and security, it is in every single instance, of a maliguity not inferior to that of murder. The very same act, when committed by the recruiting officer of one nation within the territories of another, is by the universal Law and usage of nations punished with death. Suppose the crime had in every instance, as by its consequences it has been in many, deliberate murder. Would it an-

swer or silence the voice of our complaints to be told that the number was small?

2. The impossibility of distinguishing English from American seamen is not the only, nor even the most frequent occasion of impressment. Look again into the returns from the Department of State—you will see that the officers take our men without pretending to enquire where they were born; sometimes merely to shew their animosity, or their contempt for our country; sometimes from the wantonness of power. When they manifest the most tender regard for the neutral rights of America, they lament that they *want* the men. They regret the necessity, but they *must* have their complement. When we complain of these enormities, we are answered that the acts of such officers were unauthorized; that the commanders of Men of War, are an unruly set of men, for whose violence their own Government cannot always be answerable, that enquiry shall be made--A Court Martial is sometimes mentioned--And the issue of Whitby's Court Martial has taught us what relief is to be expected from that. There are even examples I am told, when such officers have been put upon the yellow list. But this is a rare exception--The ordinary issue when the act is disavowed, is the promotion of the actor.

3. The impressed native American Citizens however, upon *duly authenticated proof* are delivered up. Indeed! how unreasonable then were complaint! how effectual a remedy for the wrong! an American vessel, bound to a European port, has two, three or four native Americans, impressed by a British Man of War, bound to the East or West Indies. When the American Captain arrives at his port of destination he makes his protest, and sends it to the nearest American Minister or Consul. When he returns home, he transmits the duplicate of his protest to the Secretary of State. In process of time, the names of the impressed men, and of the Ship into which they have been impressed, are received by the Agent in London. He makes his demand that the men may be

delivered up--The Lords of the Admiralty, after a reasonable time for enquiry and advisement, return for answer, that the Ship is on a foreign Station, and their Lordships can therefore take no further steps in the matter--Or, that the ship has been taken, and that the men have been received in exchange for French prisoners--Or, that the men had no protections (the impressing officers often having taken them from the men)--Or, that the men were *probably* British subjects. Or that they have entered, and taken the Bounty; (to which the officers know how to reduce them.) Or that they have been married, or settled in England. In all these cases, without further ceremony, their discharge is refused. Sometimes, their Lordships, in a vein of humour, inform the agent that the man has been discharged as *unserviceable*. Sometimes, in a sterner tone, they say he was *an imposter*. Or perhaps by way of consolation to his relatives and friends, they report that he has fallen in Battle, against nations in Amity with his Country. Sometimes they cooly return that there is *no such man on board the ship*; and what has become of him, the agonies of a wife and children in his native land may be left to conjecture. When all these and many other such apologies for refusal fail, the native American seaman is discharged--and when by the charitable aid of his Government he has found his way home, he comes to be informed, that all is as it should be—that the number of his fellow-sufferers is *small*—that it was impossible to distinguish him from an Englishman—and that he was delivered up, on *duly authenticated proof*.

Enough, of this disgusting subject—I cannot stop to calculate how many of these wretched victims are natives of Massachusetts, and how many natives of Virginia—I cannot stop to solve that knotty question of national jurisprudence whether some of them might not possibly be slaves, and therefore not Citizens of the United States—I cannot stay to account for the wonder, why, poor, and ignorant and friendless as most of them are, the voice of their complaints is so seldom *heard* in the great navigating States. I ad-

mit that we have endured this cruel, indignity, through all the administrations of the General Government.—I acknowledge that Britain claims the right of seizing her subjects in our merchant vessels, and that even if we could acknowledge it, the line of discrimination would be difficult to draw. We are not in a condition to maintain this right, by War, and as the British Government have been more than once on the point of giving it up of their own accord, I would still hope for the day when returning Justice shall induce them to abandon it, without compulsion. Her subjects we do not want. The degree of protection which we are bound to extend to them, cannot equal the claim of our own citizens. I would subscribe to any compromise of this contest, consistent with the rights of sovereignty, the duties of humanity, and the principles of reciprocity: but to the right of forcing even her own subjects out of our merchant vessels on the high seas I never can assent.

The second point upon which Mr. Pickering defends the pretentions of Great Britain, is her denial to neutral nations of the right of prosecuting with her enemies and their colonies, any commerce from which they are excluded in time of peace. His statement of this case adopts the British doctrine, as sound. The *right*, as on the question of impressment, so on this, it surrenders at discretion—and it is equally defective in point of fact.

In the first place, the claim of Great Britain, is not to "a right of imposing on this neutral commerce *some limits and restraints*"—but of interdicting it altogether, at her pleasure, of interdicting it without a moment's notice to neutrals, after solemn decisions of her courts of admiralty, and formal acknowledgments of her ministers, that it is a lawful trade—And, on such a sudden, unnotified interdiction of pouncing upon all neutral commerce navigating upon the faith of her decisions and acknowledgments, and of gorging with confiscation the greediness of her cruizers—This is the right claimed by Britain—This is the power she has exercised—What Mr. Pickering calls "limits and restraints," she calls relaxations of her right.

It is but little more than two years, since this question was agitated both in England and America, with as much zeal, energy and ability, as ever was displayed upon any question of national Law. The British side was supported by Sir William Scott, Mr. Ward, and the author of War in Disguise. But even in Britain their doctrine was refuted to demonstration by the Edinburg reviewers. In America, the rights of our country were maintained by numerous writers profoundly skilled in the science of national and maritime Law. The *Answer* to War in Disguise was ascribed to a Gentleman whose talents are universally acknowledged, and who by his official situations had been required thoroughly to investigate every question of conflict between neutral and belligerent rights which has occurred in the history of modern War. Mr. Gore and Mr. Pinckney, our two commissioners at London, under Mr. Jay's Treaty, the former, in a train of cool and conclusive argument addressed to Mr. Madison, the latter in a memorial of splendid eloquence from the Merchants of Baltimore, supported the same cause; memorials, drawn by lawyers of distinguished eminence, by Merchants of the highest character, and by statesmen of long experience in our national councils came from Salem, from Boston, from New-Haven, from New-York and from Philadelphia together with remonstrances to the same effect from Newburyport, Newport, Norfolk and Charleston. This accumulated mass of legal learning, of commercial information and of national sentiment from almost every inhabited spot upon our shores, and from one extremity of the union to the other, confirmed by the unanswered and unanswerable memorial of Mr. Munroe to the British minister, and by the elaborate research and irresistible reasoning of the *examination* of the British doctrine, was also made a subject of full, and deliberate discussion in the Senate of the United States. A committee of seven members of that body, after three weeks of arduous investigation, reported three Resolutions, the first of which was in these words "Resolved that the capture and condemnation, under the orders of the British government, and adjudications of their courts of admiralty of American vessels and their cargoes, on the pretext of their being

employed in a trade with the enemies of Great Britain, prohibited in time of peace, is an unprovoked aggression upon the property of the citizens of these United States, a violation of their neutral rights, and *an encroachment upon their national Independence.*"

On the 13th of February, 1806, the question upon the adoption of this Resolution, was taken in the Senate. The yeas and nays were required; but not a solitary *nay* was heard in answer. It was adopted by the unanimous voice of all the Senators present. They were twenty-eight in number, and among them stands recorded the name of Mr. Pickering.

Let us remember that this was a question most peculiarly and immediately of *commercial*, and not *agricultral* interest; that it arose from a call, loud, energetic and unanimous, from all the merchants of the United States upon Congress, for the national interposition; that many of the memorials invoked all the energy of the Legislature, and pledged the lives and properties of the memorialists in support of any measures which Congress might deem necessary to vindicate those rights. Negotiation was particularly recommended from Boston, and elsewhere--negotiation was adopted--negotiation has failed--and now Mr. Pickering tells us that Great-Britain has claimed and maintained her *right!* He argues that her claim is just--and is not sparing of censure upon those who still consider it as a serious cause of complaint.

But there was one point of view in which the British doctrine on this question was then only considered incidentally in the United States--because it was not deemed material for the discussion of *our* rights. We examined it chiefly as affecting the principles as between a belligerent and a neutral power. But in fact it was an infringement of the rights of War, as well as of the rights of Peace. It was an unjustifiable enlargement of the sphere of hostile operations. The *enemies* of Great Britain had by the universal Law of Nations a right to the benefits of neutral Commerce within their dominions (subject to the exceptions of *actual* blockade and contraband) as well as neutral na-

tions had a right to trade with them. The exclusion from that commerce by this new principle of warfare which Britain, in defiance of all immemorial national usages, undertook by her single authority to establish, but too naturally led her enemies to resort to new and extraordinary principles, by which in their turn they might retaliate this injury upon her. The pretence upon which Britain in the first instance had attempted to colour her injustice, was a miserable *fiction*--It was an argument against fact. Her reasoning was, that a neutral vessel by mere admission in time of war, into Ports from which it would have been excluded in time of peace, became thereby deprived of its national character, and ipso facto was transformed into enemy's property.

Such was the basis upon which arose the far famed rule of the war of 1756--Such was the foundation upon which Britain *claimed and maintained* this supposed right of adding that new instrument of desolation to the horrors of war--It was distressing to her enemy--yes! Had she adopted the practice of dealing with them in poison--Had Mr. Fox accepted the services of the man who offered to rid him of the French Emperor by assassination, and had the attempt succeeded, it would have been less distressing to France than this rule of the war of 1756; and not more unjustifiable. Mr. Fox had too fair a mind for either, but his comprehensive and liberal spirit was discarded, with the Cabinet which he had formed.

It has been the struggle of reason and humanity, and above all of christianity for two thousand years to mitigate the rigours of that scourge of human kind, war. It is now the struggle of Britain to aggravate them. Her rule of the war of 1756, in itself and in its effects, was one of the deadliest poisons, in which it was possible for her to tinge the weapons of her hostility.

In itself and in its effects, I say--For the French decrees of Berlin and of Milan, the Spanish and Dutch decrees of the same or the like tenor, and her own orders of January and November--these alterna-

tions of licenced pillage, this eager competition between her and her enemies for the honour of giving the last stroke to the vitals of maritime neutrality, all are justly attributable to her assumption and exercise of this single principle. The rule of the War of 1756 was the root, from which all the rest are but suckers, still at every shoot growing ranker in luxuriance.

In the last decrees of France and Spain, her own ingenious fiction is adopted; and under them, every neutral vessel that submits to English search, has been carried into an English port, or paid a tax to the English Government is declared *denationalized*, that is to have lost her national character, and to have become English property. This is cruel in execution; absurd in argument. To refute it were folly, for to the understanding of a child it refutes itself. But it is the reasoning of British Jurists. It is the simple application to the circumstances and powers of France, of the rule of the war of 1756.

I am not the apologist of France and Spain; I have no national partialities; no national attachments but to my own country. I shall never undertake to justify or to palliate the insults or injuries of any foreign power to that country which is dearer to me than life. If the voice of Reason and of Justice could be heard by France and Spain, they would say----you have done wrong to make the injustice of your enemy towards neutrals the measure of your own. If she chastises with whips do not you chastise with Scorpions.---- Whether France would listen to this language, I know not. The most enormous infractions of our rights hitherto committed by her, have been more in menace than in accomplishment. The alarm has been justly great; the anticipation threatening; but the amount of actual injury small. But to Britain, what can we say? If we attempt to raise our voices, her Minister has declared to Mr. Pinckney that she will not hear. The only reason she assigns for her recent orders of Council is, that France proceeds on the same principles. It is not by the light of blazing temples, and amid the groans of women and children perishing in the ruins of the sanctuaries of domestic habitation at

Copenhagen, that we can expect our remonstrances against this course of proceeding will be heard.

Let us come to the third and last of the causes of complaint, which are represented as so frivolous and so unfounded--" the unfortunate affair of the Chesapeake." The orders of Admiral Berkley, under which this outrage was committed, have been disavowed by his Government. General professions of a willingness to make reparation for it, have been lavished in profusion ; and we are now instructed to take these professions for *endeavours ;* to believe them sincere, because his Britannic Majesty sent us a special envoy ; and to cast the odium of defeating these endeavours upon our own government.

I have already told you, that I am not one of those who deem suspicion and distrust, in the highest order of political virtues. Baseless suspicion is, in my estimation, a vice, as pernicious in the management of public affairs, as it is fatal to the happiness of domestic life. When, therefore, the British Ministers have declared their disposition to make ample reparation for an injury of a most atrocious character, committed by an officer of high rank, and, as they say, utterly without authority, I should most readily believe them, were their professions not positively contradicted by facts of more powerful eloquence than words.

Have such facts occurred ? I will not again allude to the circumstances of Mr. Rose's departure upon his mission at such a precise point of time, that his Commission and the orders of Council of 11th November, might have been signed with the same penful of ink. The subjects were not immediately connected with each other, and his Majesty did not chuse to associate distinct topics of negotiation. The attack upon the Chesapeake was disavowed ; and ample reparation was withheld only, because with the demand for satisfaction upon that injury, the American Government had coupled a demand for the cessation of others ; alike in kind, but of minor aggravation. But had reparation really been intended, would it not have been offered, not in vague and general terms, but in precise and specific proposals ? Were any such made ? None.

But it is said Mr. Munroe was restricted from negotiating upon this subject apart; and therefore Mr. Rose was to be sent to Washington; charged with this single object; and without authority to treat upon or even to discuss any other. Mr. Rose arrives—The American government readily determine to treat upon the Chesapeake *affair*, separately from all others; but before Mr. Rose sets his foot on shore, in pursuance of a pretension made before by Mr. Canning, he connects with the negotiation, a subject far more distinct from the butchery of the Chesapeake, than the general impressment of our seamen, I mean the Proclamation, interdicting to British ships of war, the entrance of our harbours.

The great obstacle which has always interfered in the adjustment of our differences with Britain, has been that she would not acquiesce in the only principle upon which fair negotiation between independent nations can be conducted, the principle of reciprocity, that she refuses the application to us of the claim which she asserts for herself. The forcible taking of men from an American vessel, was an essential part of the outrage upon the Chesapeake. It was the ostensible purpose for which that act of war unproclaimed, was committed. The President's Proclamation was a subsequent act, and was avowedly founded upon many similar aggressions, of which that was only the most aggravated.

If then Britain could with any colour of reason claim that the general question of impressment should be laid out of the case altogether, she ought upon the principle of reciprocity to have laid equally out of the case, the proclamation, a measure so easily separable from it, and in its nature merely defensive. When therefore she made the repeal of the Proclamation an indispensible preliminary to all discussion upon the nature and extent of that reparation which she had offered, she refused to treat with us upon the footing of an independent power. She insisted upon an act of self-degradation on our part, before she would even tell us, what redress she would condescend to grant for a great and acknowledged wrong. This was a condition which she could not but know to be inadmissible, and is of itself proof nearly

conclusive that her Cabinet never intended to make for that wrong any reparation at all.

But this is not all—It cannot be forgotten that when that atrocious deed was committed, amidst the general burst of indignation which resounded from every part of this Union, there were among us a small number of persons, who upon the opinion that Berkley's orders were authorized by his Government, undertook to justify them in their fullest extent—These ideas probably first propagated by British official characters, in this Country, were persisted in until the disavowal of the British Government took away the necessity for persevering in them, and gave notice where the next position was to be taken. This patriotic reasoning however had been so satisfactory at Halifax, that complimentary letters were received from Admiral Berkley himself highly approving the spirit in which they were inculcated, and remarking how easily *Peace*, between the United States and Britain might be preserved, if *that* measure of our national rights could be made the prevailing standard of the Country.

When the news arrived in England, although the general sentiment of the nation was not prepared for the formal avowal and justification of this unparalleled aggression, yet there were not wanting persons there, ready to *claim and maintain* the right of searching national ships for deserters—It was said at the time, but for this we must of course rest upon the credit of inofficial authority, to have been made a serious question in the Cabinet Council; nor was its determination there ascribed to the eloquence of the gentleman who became the official organ of its communication—Add to this a circumstance, which without claiming the irrefragable credence of a diplomatic note, has yet its weight upon the common sense of mankind; that in all the daily newspapers known to be in the ministerial interest, Berkley was justified and applauded in every variety of form that publication could assume, excepting only that of official Proclamation.—The only part of his orders there disapproved was the reciprocal offer which he made of submitting his own ships to be searched in return—that was very unequivocally disclaimed—The ruffian right of superior force, was the solid base upon which the claim was as-

serted, and so familiar was this argument grown to the casuists of British national Jurisprudence, that the right of a British man of war to search an American frigate, was to them a self-evident proof against the right of the American frigate to search the British man of war. The same tone has been constantly kept up, until our accounts of latest date; and have been recently further invigorated by a very explicit call for war with the United States, which they contend could be of no possible injury to Britain, and which they urge upon the ministry as affording them an excellent opportunity to accomplish a *dismemberment of this Union.*—These sentiments have even been avowed in Parliament, where the nobleman who moved the address of the house of Lords in answer to the king's speech, declared that the right of searching national ships, ought to be maintained against the Americans, and disclaimed only with respect to European sovereigns.

In the mean time Admiral Berkley, by a court martial of his own subordinate officers, hung one of the men taken from the Chesapeake, and called his name Jenkin Ratford.—There was, according to the answer so frequently given by the Lords of the Admiralty, upon applications for the discharge of impressed Americans, *no such man on board the ship.* The man thus executed had been taken from the Chesapeake by the name of Wilson. It is said that on his trial he was identified by one or two witnesses who knew him, and that before he was turned off he confessed his name to be Ratford and that he was born in England—But it has also been said that Ratford is now living in Pennsylvania—and after the character which the disavowal of Admiral Berkley's own government has given to his conduct, what confidence can be claimed or due to the proceedings of a court martial of his associates held to sanction his proceedings.—The three other men had not even been demanded in his orders—They were taken by the sole authority of the British searching lieutenant, after the surrender of the Chesapeake.—There was not the shadow of a pretence before the court martial that they were British subjects, or born in any of the British dominions. Yet by this court martial they were sentenced *to suffer*

death. They were reprieved from execution, only upon condition of renouncing their rights as Americans by voluntary service in the king's ships—They have never been restored.—To complete the catastrophe with which this bloody tragedy was concluded, Admiral Berkley himself in sanctioning the doom of these men—thus obtained—thus tried—and thus sentenced, read them a grave moral lecture on the enormity of their crime, in its tendency to provoke a war between the United States and Great Britain.

Yet amidst all this parade of disavowal by his government—amidst all these professions of readiness to make reparation, not a single mark of the slightest disapprobation appears ever to have been manifested to that officer. His instructions were executed upon the Chesapeake in June—Rumours of his recall have been circulated here—But on leaving the station at Halifax in December, he received a complimentary address from the colonial assembly, and assured them in answer, that he had no official information of his recall.—From thence he went to the West Indies; and on leaving Bermuda for England in February was addressed again by that colonial government, in terms of high panegyric upon his energy, with manifest allusion to his atchievement upon the Chesapeake.

Under all these circumstances, without applying any of the maxims of a suspicious policy to the British professions, I may still be permitted to believe that their ministry never seriously intended to make us honourable reparation, or indeed any reparation at all for that "unfortunate affair."

It is impossible for any man to form an accurate idea of the British policy towards the United States, without taking into consideration the state of parties in that government; and the views, characters and opinions of the individuals at their helm of State—A liberal and a hostile policy towards America, are among the strongest marks of distinction between the political systems of the rival statesmen of that kingdom—The liberal party are reconciled to our Independence; and though extremely tenacious of every right of their own country, are systematically disposed to preserve *peace* with the United States.

Their opponents harbour sentiments of a very different description—Their system is coercion—Their object the recovery of their lost dominion in North America—This party now stands high in power—Although Admiral Berkley may never have received written orders from them for his enterprize upon the Chesapeake, yet in giving his instructions to the squadron at Norfolk, he knew full well under what administration he was acting. Every measure of that administration towards us since that time has been directed to the same purpose—To break down the spirit of our national Independence. Their purpose, as far as it can be collected from their acts, is to force us into war with them or with their enemies; to leave us only the bitter alternative of their vengeance or their protection.

Both these parties are no doubt willing, that we should join them in the war of their nation against France and her allies—The late administration would have drawn us into it by treaty, the present are attempting it by compulsion. The former would have admitted us as allies, the latter will have us no otherwise than as colonists. On the late debates in Parliament, the lord chancellor freely avowed that the orders of Council of 11th. November were intended to make America *at last* sensible of the policy of joining England against France.

This too, Sir, is the substantial argument of Mr. Pickering's letter.—The suspicions of a *design* in our own administration to plunge us into a war with Britain, I never have shared. Our administration have every interest and every motive that can influence the conduct of man to deter them from any such purpose. Nor have I seen any thing in their measures bearing the slightest indication of it. But between a design of war with England, and a surrender of our national freedom for the sake of war with the rest of Europe, there is a material difference. This is the policy now in substance recommended to us, and for which the interposition of the commercial States is called. For this, not only are all the outrages of Britain to be forgotten, but the very assertion of our rights is to be branded with odium.—*Impressment—Neutral trade—British taxation*—Every

thing that can distinguish a state of national freedom from a state of national vassalage, is to be *surrendered at discretion.* In the face of every fact we are told to believe every profession—In the midst of every *indignity*, we are pointed to British protection as our only shield against the universal conqueror. Every phantom of jealousy and fear is evoked—The image of France with a scourge in her hand is impressed into the service, to lash us into the refuge of obedience to Britain—insinuations are even made that if Britain "with her thousand ships of war," has not destroyed our commerce, it has been owing to her indulgence, and we are almost threatened in her name with the "destruction of our fairest cities."

Not one act of hostility to Britain has been committed by us, she has not a pretence of that kind to alledge—But if she will wage war upon us, are we to do nothing in our own defence? If she issues orders of universal plunder upon our commerce, are we not to withhold it from her grasp? Is American pillage one of those rights which she has claimed and exercised until we are foreclosed from any attempt to obstruct its collection? For what purpose are we required to make this sacrifice of every thing that can give value to the name of freemen, this abandonment of the very right of self-preservation? Is it to avoid a war?—Alas! Sir, it does not offer even this plausible plea for pusillanimity—For, as submission would make us to all substantial purposes British colonies, her enemies would unquestionably treat us as such, and after degrading ourselves into voluntary servitude to escape a war with her, we should incur inevitable war with all her enemies, and be doomed to share the destinies of her conflict with a world in arms.

Between this unqualified submission, and offensive resistance against the war upon maritime neutrality waged by the concurring decrees of all the great belligerent powers, the Embargo was adopted, and has been hitherto continued. So far was it from being dictated by France, that it was calculated to withdraw, and has withdrawn from within her reach all the means of compulsion which her subsequent decrees would have put in her possession. It has added to the motives both of France and England, for preserving peace with us, and has diminish-

ed their inducements to war. It has lessened their capacities of inflicting injury upon us, and given us some preparation for resistance to them—It has taken from their violence the lure of interest—It has dashed the philter of pillage from the lips of rapine. That it is distressing to ourselves—that it calls for the fortitude of a people, determined to maintain their rights, is not to be denied. But the only alternative was between that and war. Whether it will yet save us from that calamity, cannot be determined, but if not, it will prepare us for the further struggle to which we may be called. Its double tendency of promoting peace and preparing for war, in its operation upon both the belligerent rivals, is the great advantage, which more than outweigh all its evils.

If any statesman can point out another alternative, I am ready to hear him, and for any practicable expedient to lend him every possible assistance. But let not that expedient be, submission to trade under British licences, and British taxation. We are told that even under these restrictions we may yet trade to the British dominions, to Africa and China, and with the colonies of France, Spain, and Holland. I ask not how much of this trade would be left, when our intercourse with the whole continent of Europe being cut off would leave us no means of purchase, and no market for sale?—I ask not, what trade we could enjoy with the colonies of nations with which we should be at war? I ask not how long Britain would leave open to us avenues of trade, which even in these very orders of Council, she boasts of leaving open as a special indulgence? If we yield the principle, we abandon all pretence to national sovereignty—To yearn for the fragments of trade which might be left, would be to pine for the crumbs of commercial servitude—The boon, which we should humiliate ourselves to accept from British bounty, would soon be withdrawn. Submission never yet sat boundaries to encroachment. From pleading for half the empire, we should sink into supplicants for life—We should supplicate in vain. If we must fall, let us fall, freemen—If we must perish, let it be in defence of our RIGHTS.

To conclude, Sir, I am not sensible of any necessity for the extraordinary interference of the commercial States, to controul the general Councils of the nation.—If any interference could at this critical extremity of our affairs have a kindly effect upon our common welfare, it would be an interference to promote union and not division—to urge mutual confidence, and not universal distrust—to strengthen the arm and not to relax the sinews of the nation. Our suffering and our dangers, though differing perhaps in degree, are universal in extent.—As their causes are justly chargeable, so their removal is dependent not upon ourselves, but upon others. But while the spirit of *Independence* shall continue to beat in unison with the pulses of the nation, no danger will be truly formidable—Our duties are, to prepare with concerted energy, for those which threaten us, to meet them without dismay, and to rely for their issue upon Heaven.

I am, with great respect and attachment,

Dear Sir, your friend and humble servant,

JOHN QUINCY ADAMS.

Hon. Harrison Gray Otis.

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