

DOCUMENT ON IMPRESSMENT.

Extract of a Letter from the Secretary of State to James Monroe, esq. Minister at London, dated 8th January 1801.

"We consider a neutral flag, on the high seas, as a safeguard to those sailing under it. Great-Britain on the contrary, asserts a right to search for, and seize her own subjects; and under that cover, as cannot but happen, are often seized and taken off citizens of the United States, and citizens or subjects of other neutral countries, navigating the high seas, under the protection of the American flag.

Were the right of Great-Britain, in this case not denied, the abuses flowing from it would justify the United States in claiming and expecting a discontinuance of its exercise. But the right is denied, and on the best grounds.

Although Great-Britain has not yet adopted in the same latitude with most other nations, the immunities of a neutral flag, she will not deny the general freedom of the high seas, and of neutral vessels navigating them, with such exceptions only as are annexed to it by the law of nations. She must produce then such an exception in the law of nations, in favor of the right she contends for.

But in what written and received authority will she find it? In what usage except her own will it be found? She will find in both, that a neutral vessel does not protect certain objects denominated contraband of war, including enemies serving in the war, nor articles going into a blockaded port, nor as she has maintained, and as we have not contested, enemies' property of any kind. But no where will she find an exception to this freedom of the seas, and of neutral flags, which justifies the taking away of any person, not an enemy in military service, found on board a neutral vessel.

If treaties, British as well as others, are to be consulted on this subject, it will equally appear that no countenance to the practice can be found in them. Whilst they admit a central land of war, by enumerating its articles, and the effect of a real blockade by defining it, in no instance do they affirm or imply a right in any sovereign to enforce his claims to the allegiance of his subjects, on board neutral vessels on the high seas. On the contrary, whenever a belligerent claim against persons on board a neutral vessel, is referred to in treaties, enemies in military service alone are excepted from the general immunity of persons in that situation; and this exception confirms the immunity of those who are not included in it.

It is not then from the law or the usage of nations, nor from the tenor of the treaties, that any sanction can be derived for the practice in question. And surely it will not be pretended that the sovereignty of any nation extends in any case whatever beyond its own dominions, and its own vessels on the high seas. Such a doctrine would give just alarm to all nations, and more than any thing would countenance the imputation of aspiring to an universal empire of the seas. It would be less admissible too, as it would be applicable to times of peace as well as to persons. If the law of allegiance, which is a municipal law, be in force at all on the high seas, on board foreign vessels, it must be so at all times there, as it is within its acknowledged sphere. If the reason alleged for it be good in times of war, namely, that the sovereign has then a right to the service of all his subjects, it must be good at all times, because at all times he has the same right to their service. War is not the only occasion for which he may want their services, nor is external danger the only danger against which their services may be required for his security. Again; if the authority of a municipal law can operate on persons in foreign vessels on the high seas, because within the dominion of their sovereignty they would be subject to that law, and are violating that law by being in that situation, how reject the inference that the authority of a municipal law may equally be enforced on board foreign vessels on the high seas, against articles of property exported in violation of such a law, or belonging to the country from which it was exported; and thus every commercial regulation, in time of peace too, as well as of war, would be made obligatory on foreigners and their vessels, not only whilst within the dominion of the sovereign making the regulation, but in every sea, and at every distance where an armed vessel might meet with them. Another inference deserves attention. If the subjects of one sovereign may be taken by force from the vessels of another on the high seas, the right of taking them when found, implies the right of searching for them, a vexation of commerce, especially in the time of peace, which has not yet been attempted, and which for that as well as other reasons, may be regarded as contradicting the principle from which it would flow.

Taking reason and justice for the tests of practice, it is peculiarly indelible; because it deprives the dearest rights of a regular trade, to which the most considerable article of property captured on the high seas, is entitled; and sometimes cruel, often ignorant, and generally interested by his want of mariners, in his own decisions.—Whenever property found in a neutral vessel is supposed to be liable on any grounds to capture and condemnation, the rule in all cases is that the question shall not be decided by the captor, but be carried before a legal tribunal, where a regular trial may be had, and where the captor himself is liable to damages, for an abuse of his power. Can it be responsible then, or just, that a belligerent commander, who is thus restricted and thus responsible in a case of mere property of trivial amount, should be permitted without recurring to any tribunal whatever, to examine the crew of a neutral vessel, to decide the important question of their respective allegiances, and to carry that decision into instant execution, by forcing every individual he may chuse, into a service abhorrent to his feelings, cutting him off from his most tender connections, exposing his mind and his person to the most humiliating discipline, and his life to the greatest dangers? Reason, justice and humanity unite in protesting against so extravagant a proceeding. And what is the pretext for it? It is that the similarity of language and of features between American citizens and British subjects, are such as not easily to be distinguished; and that without this arbitrary and summary authority to make the distinction, British subjects would escape, under

the name of American citizens; from the duty which they owe to their sovereign. Is then the difficulty of distinguishing a mariner of one country from the mariner of the other, and the importance of his services, a good plea for referring the question whether he belongs to the one or to the other, to an arbitrary decision on the spot, by an interested and unresponsible officer? In all other cases, the difficulty and the importance of questions are considered as reasons for requiring greater care and formality in investigating them, and greater security for a right decision on them. To say that precautions of this sort are incompatible with the object is to admit the object is unjustifiable; since the only means by which it can be pursued are such as cannot be justified.

The evil takes a deeper die, when viewed in its practice as well as its principles. Were it allowable that British subjects should be taken out of American vessels on the high seas, it might at least be required that the proof of their allegiance should lie on the British side. This obvious and just rule is, however, reversed; and every seaman on board, sailing under the American flag, and sometimes even speaking an idiom proving him not to be a British subject, is presumed to be such unless shown to be an American citizen. It may safely be affirmed that this is an outrage and an indignity which has no precedent, and which Great-Britain would be among the last nations in the world to suffer, if offered to her own subjects, and her own flag. Nor is it always against the right presumption alone which is in favor of the citizenship corresponding with the flag, that the violence is committed. Not unfrequently it takes place in defiance of the most positive proof, certified in due form by an American officer. Let it not be said, that in granting to American seamen this protection for their rights as such, the point is yielded, that the proof lies on the Americanside, and that the want of it in the prescribed form justifies the inference that the seaman is not of American allegiance. It is distinctly to be understood, that a certificate usually called a protection to American seaman, is not meant to protect them under their own, or even any other neutral flag on the high seas. We can never admit, that in such a situation, any other protection is required for them, than the neutral flag itself on the high seas. The document is given to prove their real character, in situations to which neither the law of nations, nor the law of their own country, are applicable; in other words, to protect them within the jurisdiction of the British laws, and to secure to them within every other jurisdiction, the rights and immunities due to them. If, in the course of their navigation even on the high seas, the document should have the effect of repelling wrongs of any sort, it is an incidental advantage only, of which they avail themselves, and is by no means to be misconstrued into a right to exact such a proof, or to make any disadvantageous inference from the want of it.

Were it even admitted, that certificates for protection might be justly required in time of war, from American seamen, they could only be required in cases where the lapse of time from its commencement, had given an opportunity for the American seaman to provide themselves with such a document. Yet it is certain, that in a variety of instances, seamen have been impressed from American vessels, on the plea that they had not this proof of citizenship, when the dates and places of the impressments demonstrated the impossibility of their knowing in time to provide the proof, that a state of war had rendered it necessary.

Whether, therefore, we consult the law of nations, the tenor of treaties or the dictates of reason and justice, no warrant, no pretext can be found for the British practice of making impressments from American vessels on the high seas. Great-Britain has the less to say in excuse for this practice, as it is in direct contradiction to the principles, on which she proceeds in other cases. Whilst she claims and seizes on the high seas her own subjects voluntarily serving in American vessels, she has constantly given, when she could give, as reason for not discharging from her service American citizens, that they had voluntarily engaged in it. Nay, more, whilst she impresses her own subjects from the American service, although they may have been settled and married, and even naturalized in the United States she constantly refuses to release from hers. Americans impressed into it, whenever she can give for a reason that they were either settled or married within her dominions. Thus, when the voluntary consent of the individual favors her pretensions, she pleads the validity of that consent: When the voluntary consent of the individual stands in the way of her pretensions, it goes for nothing! When marriage or residence can be pleaded in her favor, she avails herself of the plea: When marriage and residence and even naturalization are against her, no respect whatever is paid to either! She takes by force her own subjects voluntarily serving in our vessels. She keeps by force American citizens involuntarily serving in hers. More flagrant inconsistencies cannot be imagined.

Notwithstanding the powerful motives which ought to be felt by the British government to relinquish a practice which exposes it to so many reproaches, it is foreseen, that objections of different sorts will be pressed on you. You will be told first, of the great number of British seamen in the American trade, and of the necessity for their services in time of war and danger. Secondly, of the right and the prejudice of the British nation with respect to what are called the narrow or narrow seas, where its domain would be abandoned by the general stipulation required. Thirdly, of the use which would be made of such a sanctuary as that of American vessels for desertions and traitorous communication to her ene-

mies, especially across the channel to France.

1st. With respect to the British seamen serving in our trade, it may be remarked, first, that the number, though considerable, is probably less than may be supposed; secondly, that what is wrong in itself cannot be made right by considerations of expediency or advantage; thirdly, that it is proved by the fact that the number of real British subjects gained by the practice in question, is of inconsiderable importance even in the scale of advantage. The annexed report to congress on the subject of impressments, with the addition of such cases as may be in the hands of Mr. Erving, then our consul in London, will verify the remark in its application to the present war. The statement made by his predecessor during the last war, and which is also annexed, is in the same view still more conclusive. The statement comprehends not only all the applications made by him in the first instance, for the liberation of impressed seamen, between the months of June, 1797, and September, 1801, but many also which had been made previous to his agency, by Mr. Pinckney and Mr. King, and which it was necessary for him to renew. These applications, therefore, may fairly be considered as embracing the greater part of the period of the war; and as applications are known to be pretty indiscriminately made, they may be considered as embracing if not the whole, the far greater part of the impressments, those of British subjects, as well as others. Yet the result exhibits 2059 cases only, and of this number 102 seamen only detained as being British subjects, which is less than $\frac{1}{20}$ of the number impressed, and 11,42 discharged or ordered to be so, as not being British subjects, which is more than half the whole number, leaving 805 for further proof, with the strongest presumption that the greater part, if not the whole, were Americans or other aliens, whose proof of citizenship had been lost or destroyed, or whose situation would account for the difficulties and delays in producing it. So that it is certain, that for all the British seamen gained, by this violent proceeding, more than an equal number, who were not so, were the victims: it is highly probable that for every British seaman so gained, a number of others, not less than 10 for 1, must have been the victims; and it is even possible that this number may have exceeded the proportion of 20 to 1.

It cannot therefore be doubted, that the acquisition of British seamen by these impressments, whatever may be its advantage, is lost in the wrong done to Americans, ignorantly or wilfully mistaken for British subjects, in the jealousy and ill-will excited among all maritime nations by an adherence to such a practice, and in the particular provocation to measures of redress on the part of the United States, not less disagreeable to them than embarrassing to Great-Britain, and which may threaten the good understanding which ought to be faithfully cultivated by both. The copy of a bill brought into congress under the influence of violations committed on our flag, gives force to this latter consideration. Whether it will pass into a law, and at the present session, is more than can yet be said. As there is every reason to believe that it has been proposed with reluctance, it will probably not be pursued into effect, if any hope can be supported of a remedy, by an amicable arrangement between the two nations.

There is a further consideration which ought to have weight in this question. Although the British seamen employed in carrying on American commerce, be in some respects lost to their own nation, yet such is the intimate and extensive connection of this commerce, direct and circuitous, with the commerce, the manufactures, the revenue and the general resources, of the British nation, that in other respects its mariners, on board American vessels, may truly be said to be rendering it the most valuable services. It would not be extravagant to make it a question, whether Great Britain would not suffer more by withdrawing her seamen from the merchant vessels of the United States, than her enemies would suffer from the addition of them to the crews of her ships of war and cruisers.

Should any difficulty be started concerning seamen born within the British dominions, and naturalized by the United States, since the treaty of 1783, you may remove it by observing; First, that very few, if any, such naturalizations can take place, the law here requiring a preparatory residence of five years, with notice of the intention to become a citizen entered on record two years before the last necessary formality, besides a regular proof of good and moral character, conditions little likely to be complied with by ordinary seafaring persons. Secondly, that a discontinuance of impressments on the high seas will preclude an actual collision between the interfering claims. Within the jurisdiction of each nation, and in their respective vessels on the high seas, each will enforce the allegiance which it claims. In other situations the individuals doubly claimed, will be within a jurisdiction independent of both nations.

Secondly. The British pretensions to domain over the narrow seas are so obsolete, and indefensible, that they never would have occurred as a probable objection in this case, if they had not actually frustrated an arrangement settled by Mr. King with the British ministry on the subject of impressments from American vessels on the high seas. At the moment when the articles were expected to be signed, an exception of the "narrow seas" was urged and insisted on by Lord St. Vincent; and being utterly inadmissible on our part, the negotiation was abandoned.

The objection in itself has certainly not the slightest foundation. The time has been indeed when England not only claimed, but exercised pretensions scarcely inferior to full sovereignty over the seas surrounding

the British islands, and even as far as Cape Finistere to the south and Van Staten in Norway to the North. It was a time, however, when reason had little share in determining the law, and the intercourse of nations, when power alone decided questions of right, and when the ignorance and the want of concert among other maritime countries facilitated such an usurpation; the progress of civilization and information has produced a change in all those respects, and no principle in the code of public law, is at present better established than the common freedom of the seas beyond a very limited distance from territories washed by them. This distance is not indeed fixed with absolute precision. It is varied in a small degree by written authorities, and perhaps it may be reasonably varied in some degree by local peculiarities. But the greatest distance which would now be listened to any where, would make a small proportion of the narrowest part of the narrowest seas in question.

What are, in fact, the prerogatives claimed and exercised by Great-Britain over these seas? If they are really a part of her domain, her authority would be the same there as within her other domain. Foreign vessels would be subject to all the laws and regulations framed for them, as much as if they were within the harbors and rivers of the country. Nothing of this sort is pretended. Nothing of this sort will be tolerated. The only instances in which these seas are distinguished from other seas, or in which Great-Britain enjoys within them any distinction over other nations, are first, the compliment paid by other flags to hers.—Secondly, the extension of her territorial jurisdiction in certain cases to the distance of four leagues from the coast. The first is a relic of ancient usurpation, which has thus long escaped the correction which modern and more enlightened times have applied to other usurpations. The prerogative has been often contested, however, even at the expense of bloody wars, and is still borne with ill will & impatience by her neighbors. At the last treaty of peace at Amiens, the abolition and repeal of this law was strongly pressed by France; and it is not improbable, that at no remote day it will follow the fate of the title of "king of France," so long worn by the British monarchs, and at length so properly sacrificed to the lessons of a magnanimous wisdom. As far as this homage to the British flag has any foundation at present, it rests merely on long usage and long acquiescence, which are construed, as in a few other cases of maritime claims, into the effect of a general though tacit convention. The second instance is the extension of the territorial jurisdiction to four leagues from the shore. This too, as far as the distance may exceed that which is generally allowed, rests on a like foundation, strengthened, perhaps, by the local facility of smuggling, and the peculiar interest which Great-Britain has in preventing a practice affecting so deeply her whole system of revenue, commerce, and manufactures; whilst the limitation itself to four leagues necessarily implies that beyond that distance no territorial jurisdiction is assumed.

But whatever may be the origin or value of these prerogatives over foreign flags, in one case, and within a limited portion of these seas in another, it is obvious that neither of them will be violated by the exemption of American vessels from impressments, which are no wise connected with either; having never been made on the pretext either of withholding the wonted homage to the British flag, or of smuggling in defiance of British laws.

This extension of the British law to four leagues from the shore is inferred from an act of parliament passed in the year 1786, (9 G. 3. C. 33) the terms of which comprehend all the vessels, foreign as well as British. It is possible, however, that the former are constructively excepted. Should you inquire ascertain this to be the case, you will find yourself on better ground than the concession here made.

With respect to the compliment paid to the British flag, it is also possible that more is here conceded than you may find to be necessary. After the peace of 1783, this compliment was peremptorily withheld by France, in spite of the remonstrances of Great-Britain; and it remains for your inquiry, whether it did not continue to be refused, notwithstanding the failure of Amiens to obtain from Great-Britain a formal renunciation of the claim.

From every view of the subject, it is reasonable to expect that the exception of the narrow seas, from the stipulation against impressments, will not be inflexibly maintained. Should it be so, your negotiation will be at an end. The truth is, that so great a proportion of our trade direct and circuitous, passes through those channels, and such is its peculiar exposure in them to the wrong practised, that with such an exception, any remedy would be very partial. And we can never consent to purchase a partial remedy by continuing a general evil, and by subjecting ourselves to our own reproaches as well as to those of other nations.

Third, it appears as well by a letter from Mr. Thornton, in answer to one from me, of both which copies are enclosed, as from conversations with Mr. Merry, that the facility which would be given, particularly in the British channel, by the immunity claimed for American vessels, to the escape of traitors, and the desertion of others whose services in time of war may be particularly important to an enemy, forms one of the pleas for the British practice of examining American crews and will be one of the objections to a formal relinquishment of it.

This plea, like all the others, admits a solid and satisfactory reply. In the first place if it could prevail at all against the neutral claim, it would authorize the seizure of the persons described only, and in vessels bound to a foreign country only; whereas the practice of impressing is applied to persons few if any of whom are alleged to be of either description, and to vessels whithersoever bound, even to Great Britain herself.

In the next place, it is not only a preference, of a smaller object on one side to a greater object on the other, but a sacrifice of right on one side, to expediency on the other side.

BY THIS DAY'S MAILS.

NEW-YORK, July 13.

Arrived. The ship Niagara, Cross, of New Bedford, 45 days from Greenock. The ship Francis, Braine, arrived the evening of the 26th May from New-York. Left ship General Butler, Blake, of New-Orleans; ship Moses, Brown, of Newburyport. Spoke, June 10, in lat. 47, long. 30, 30, ship Olive, 14 days from Liverpool, for Baltimore. 19th, lat. 45, 48, long. 42, 30, schr. Two Brothers, 26 days from Bordeaux, for Boston. July 3, lat. 39, 33, long. 62, 6, ship Sally, Hickley, 4 days from Philadelphia for Liverpool. A daily passenger being sick, the Niagara is quarantined.

The ship Draper, Laufair, 42 days from London. Left ship Comet, Mount, of and for New-Befford, in 10 days; Almy, Vernon, Coggeshall, of New-Befford for New-York in 10; ship Sachem, Earl, of Newport, 11, for Goldenbury in 10; ship Centaur, Dale, uncertain; Shepherdess, Doane, for N. York in 8; Thomas, Bush, for Norfolk, uncertain; Isabella, arrived from the River Plate, destination unknown; Hugh Johnson, Sewal, do. Planter, Moore, for Norfolk July 10; Junetta, Murphy, for Baltimore in 8 weeks; Amelia, Mathews, ready to sail for Philadelphia; brig Strata, Green, of New-York; schr. Eliza and Kitty, Clasby, of Philadelphia for Cadiz; brig Albaros, Arnold, of Weymouth, for Cadiz in 2 days; Indian, of New-York; ship Sampson, Lombard, of Boston for Philadelphia in 10; brig Helen, Foster, for Philadelphia in 10; schr. William, Stanwood, of Boston, for the Mediterranean; Perseverance, Swain, of New-York, for Wilmington, (N. C.) ready to sail; brig Brothers, Keheir, at New-Castle; brig Holly, Coffin, of New-York, under adjudication; schr. Ann and Margaret, Waterman, detained at Plymouth; brig Exert, Kimmar, for Boston in 3; brig—Coffin, of New-York, from Leghorn bound to Copenhagen, detained at Portsmouth; Recovery, Webb, from Salem, bound to Rotterdam, do; ship Medford, Barnard, ready to sail for the Straits; ship Atlantic, Governor, of Boston, for Cadiz, first wind. Spoke June 28, ship Laconia, from Liverpool, bound to Portsmouth, out 37 days.

The ship Richard, Rogers, in 12 days from St. Croix. Left, brig James, Wells, to sail for New-York, in a few days; Henry, Denison, for do.; and brig Alfred, just arrived.

The British ship Benjamin, Carr, 27 days from the Island of Trinidad, and 17 from Tortola.

The brig Betsy, Johnson, 46 days from Bordeaux. Left May 23, ships Exchange, Weeks, for New-York, in 2 days; Philadelphia, Leffingwell, do. in 4; Margaret, do. 24; Fidelia, Joy, do. 20; Jane, Sams, do. do.; brigs Virginia, Robert, do. 6; Haron, Hill, do. 10; Deborah, Eldridge, do. do.; Caroline, of Boston, Adams, do. 12; ships John and Francis, for Charleston, in 5; Portland, Callender, do. 2; brig Repose, Carter, do. 4; ships Molly, for Philadelphia, in a few days; Lorenzo, Dill, do. 6; Charleston Packet, Silliman, do. in a few days; Acmey, Nye, for Baltimore, in 13; Pacific, Stevens, Boston, in a few days; Packet, Johnson, Marblehead, do.; schr. Perseverance, Mosey, do. in 10; ship Genes, of New-York, under seizure; brig Brunswick, Campbell, just arrived from Charleston, in quarantine. Four or five American vessels arrived after this list was made out. Spoke, May 27, going up the Cordovan, ship Illinois, from New-York, for Lisbon. June 1, lat. 44, 12, long. 12, was boarded by the British frigate Emerald, 2 days before, she had boarded the brig Stephen, Skiddy, from New-York, for Leideaux, and had recaptured a New-York ship from Liverpool, that had been taken by a French privateer. 28th, lat. 41, 50, long. 56, spoke schr. Washington, 12 days from Portsmouth for Bilbao. July 2, lat. 40, 45, long. 63, spoke ship Woodrop Sims, 6 days from Philadelphia, for Hamburg. The brig Olive sailed the day before for New-York. The ship American Packet, and ship Exchange had dropped anchor, both for New-York.

The brig Industry, Carter, 13 days from Havana.

The schr. Rising States, Wood, 7 days from Charleston. Left, brig Olive, Crowell, to sail in 7 days for New-York. The schr. Trial and Jane, sailed in co. for N. York. July 9, lat. 38, 51, long. 75, was boarded by the British sloop of war Squirrel, and treated politely.

The schr. Trio, Story, of Boston, 20 days from Havana. Off Havana was boarded by the Adamant and treated politely. Four days since, in lat. 37, long. 73, 30, spoke, brig Lucy, 2 days from Philadelphia for Martinique.

The schr. Democrat, Etheridge, 8 days from Edenton.

Schr Caroline, Gregory, 9 days from Georgetown. July 9, spoke the British sloop of war Squirrel and treated politely. Last Wednesday, spoke a ship from Leith for Baltimore; same day spoke a ship from Bermuda, bound to Norfolk, dismasted.

The schr. Thomas, Curris, 15 days from St. John, N. B. Left, schr. Argonaut, and Pandora, both for N. York, to sail next day.

The schr. Sally, Meekins, 15 days from Plymouth, N. C.

Below, last night one brig.

Cleared—ship St. Johannes Baptiste, Kait, Petersburg; Britania, Lovett, Winsor, N. S.; brig Midas, Dobell, Nantz; Mentor, Jenkins, Madeira; Fox, Sangar, Mechias; schr. Rolla, Barnard, Savannah; Margaretta Tinney, Worter, Trinidad in Cuba; Only, Daughter, Williams, Middleton; Lucretia, Fisher, Newbern; sloop Bellerophon, Dunscomb, Bermuda; Ranger, Peck, Savannah.

The Secretary at War paid a visit yesterday afternoon to Fort Jay, and was complimented on his arrival and return, with a salute of 17 guns.