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An Examination of the Question, now in Discussion, between the American and British Governments, concerning the RIGHT OF SEARCH. By an American.

When we doubted, we took the trick.

London Times, Jan. 1842.

(Concluded.)

We are no slave holder. We never have been. We never shall be. We deprecate its existence in principle, and pray for its abolition everywhere, where this can be effected justly, and peaceably, and safely for both parties. But we would not carry fire, and devastation, and murder and ruin into a peaceful community, to push on the accomplishment of the object. But after having visited the three quarters of the old Continent, we say before God and the world, that we have seen far more, more frightful misery, since we landed in Europe, *and we have not visited Ireland yet*, than we have ever seen among this class of people of the United States. Whatever may be said, there is much of the patriarchal relation between the Southern planter and the slave. And as to the physical distress, which is seen in Europe, resulting from a want of food, and from exposure to a rigorous winter, without adequate clothing, we believe it to be so rare, as not to form a just element in the consideration of this matter. But the subject of the emancipation of two millions and a half of human beings, living among another population, of different race and color, and with different habits and feelings, is one of the gravest questions, which can be submitted to society to solve. It can be safely left only to those, who are to be so seriously affected by it, and there it is left by the Constitution of the United States. It is a matter with which the general government has no concern.

And so with respect to the slave trade. It is a traffic, which can be traced back to the time of Jacob, whose son *was sold in Egypt*; and down, in some form or other, during the successive ages, which have intervened, to the last century, when by treaty arrangements with Spain, England obtained, as a great commercial favor, the privilege of supplying the Spanish colonies with slaves,* and to the present, when after many years of bitter opposition, the English parliament voted the abolition of the slave trade; but when some of the greatest names † in England were found in the minority. These Statesmen, by their votes not only pronounced the slave trade to be legal and expedient, but *moral* also so far, as that consideration formed, at that time, a motive of legislative action. That it is illegal, by the great code of public law, no statesman, nor publicist, or well informed man will serious contend. Thanks to the advancing opinions of the age, its atrocity is generally acknowledged, and the obligation of Christian States to extinguish it, almost every where recognized and obeyed. But it is not permitted, in order to attain a great good, to commit a great evil. In order to break up this traffic, to break down the barrier, which centuries have been rearing, and by which the weak are everywhere protected against the strong, the peaceful against the warlike. The law of nations is but general opinion, illustrated by able jurists, and sanctified by time, and by universal acquiescence. Touch it rudely, and the whole fabric will disappear, leaving the nations of the world, in their mutual relations, as they existed in the most barbarous ages.

Most strictly and most impressively therefore do Lord Stowell say, "No nation has the right to force their way, for the liberation of Africa, by trampling upon the independence of other States, on the pretence of an eminent good, by means that are unlawful; or to press forward to a great principle, by breaking through other great principles, which stand in their way."

Words of deep wisdom and solemn warning; and lamentable is it, that their obligation has scarcely outlived the able and venerable judge, by whom they were pronounced. And above all is it to be deplored, that the first public practical disavowal of these sentiments should come from a country whose law they were ruled to be.

We have already adverted to the opinion of the Duke of Wellington, in connexion with that of Lord Stowell. This we did from memory, but at the moment of writing this part of our remarks, we have been enabled to refer to a debate in the House of Lords 10 July, 1839, where his sentiments are fully disclosed. With that spirit of frankness and sagacity, which are not the least eminent, among the qualities of that eminent man, he predicted the issue to which this pretension must lead. He said, "the clause in question made it lawful to detain any vessels whatever, on suspicion, on the high seas, and demand their papers; and the persons exercising such authority were moreover indemnified for all the consequences. Was it intended, that the vessels of any power in Europe might be searched, and afterwards allowed to proceed on their voyage, whether we had treaties with those powers or not? Such a law would be a perfect novelty in the legislation of this country, and the House ought to well pause before they adopted it."

Again, on the 15th August, the Duke remarked, "It was well known, that with the United States we had no convention; there were indeed engagements, made by diplomatic notes, but nothing went to shew the least disposition on their part to permit the right *of detention and the search of papers*; and if there was one point more to be avoided than another, it was that relating to the *visitation* of vessels belonging to the Union. He warned Government not to proceed, but rather to issue an order in council or a declaration of war."

We quote the remarks of Lord Brougham, because they are equally honorable to himself, to truth, and to the American Government. "It could not be denied, that we were peculiarly situated, with respect to the United States; because we had not effected any treaty conferring such right of search. It should be borne in mind, that the United States, at the very earliest period they were enabled to do so by the federal union, had adopted the abolition of the slave trade, and were in fact the first to make it piracy for any one of its subjects to carry it on. The government of the United States was not so strong as a monarchical government, nor had it such direct and powerful means of controlling its subjects." And he remarks with respect to the sale of American ships to persons carrying on the slave trade, "but the people might not after all, be answerable for the purposes to which they were devoted; not more so, certainly, than an English shipbuilder, who sold vessels constructed in his yard, which were afterwards despatched to the coast of Africa."

We shall not add a word to the authority of these high names. Their decisions need no commentary from us.

Keeping in view the preceding course of discussion, it is obvious, that upon the principles heretofore received among mankind, if the United States should peremptorily refuse all co-operation, in any effort to put down the slave trade, they would be responsible only to the public opinion of nations, and to Him by whom nations rise and fall. It would be but the consequence, says the London Sun, "of our former proceedings, which have made it impossible for the Americans to admit this claim. By committing injustice on our own people, we have bred up our officers in arbitrary habits, which have made them arbitrary to other nations, and the consequences debar England from following out her humane wishes to suppress the slave trade."

But the United States refuse no such co-operation. They have interdicted as we have seen, this trade, to their citizens, and have provided exemplary punishments for the transgressors. They have, for many years, kept a squadron upon the coast of Africa, to aid in its suppression, and they are now making arrangements for its augmentation. We do not affect to deny, that a general right of search would assist the objects which all the Christian powers are seeking to obtain. It would be an additional means of detection. But such a right is not at all indispensable to success. Much has been already done, and the work is going on now. It would be greatly promoted, if the markets in countries to which slaves are yet transported, were closed to this traffic. If these unhappy victims of lawless violence could not be sold, they would not be bought. Let a general effort be made with the Spanish, Portuguese, and Brazilian governments, to induce them to act vigorously in this matter, by judicious municipal regulations, faithfully executed; and a powerful means of success will be put in motion, without "breaking down the great principles which now stand in its way."

* The direct role of the treaty of Madrid of 26 March, 1713 is thus constructed. "It shall be the privilege, which was formerly with the Company, that of annual ship, to be allowed to carry negroes to the Spanish Indies, in the West Indies, for the term of thirty years, from the date of the Ratification of this treaty, the Queen of Great Britain on her part undertaking to procure the Asiatic Company, and to be same the Emperor Company, etc.

† In looking over Clarkson's History of the abolition of the African trade we find, that the amendment of Mr. Pitt was first proposed upon the second reading of the bill, and was rejected by a majority of 163 against 88. Mr. Fox then proposed to add the words "gradually and ultimately," which was carried by a majority of 151 against 70. Mr. Pitt then moved to add the words "from the time when the House shall have received the report of the Privy Council upon the subject." This was carried by a majority of 149 against 69. Mr. Fox then moved to add the words "from the last day of our having agreed to the address to the King upon the subject." This was carried by a majority of 149 against 68. Mr. Gladstone was rejected by the Commons, and the bill was lost in the House of Lords