

system of maritime police, adopted at will by the great naval Power for the time being, the trade of the world in any places or in any articles which such Power might see fit to prohibit to its own subjects or citizens. A principle of this kind could scarcely be acknowledged, without subjecting commerce to the risk of constant and harassing vexations.

The attempt to justify such a pretension from the right to visit and detain ships upon reasonable suspicion of piracy, would deservedly be exposed to universal condemnation, since it would be an attempt to convert an established rule of maritime law, incorporated as a principle into the international code by the consent of all nations, into a rule and principle adopted by a single nation, and enforced only by its assumed authority. To seize and detain a ship upon suspicion of piracy, with probable cause and in good faith, affords no just ground either for complaint on the part of the nation whose flag she bears, or claim of indemnity on the part of the owner. The universal law sanctions, and the common good requires, the existence of such a rule. The right, under such circumstances, not only to visit and detain, but to search a ship, is a perfect right, and involves neither responsibility nor indemnity. But, with this single exception, no nation has, in time of peace, any authority to detain the ships of another upon the high seas, on any pretext whatever, beyond the limits of her territorial jurisdiction. And such, I am happy to find, is substantially the doctrine of Great Britain herself, in her most recent official declarations, and even in those now communicated to the House. These declarations may well lead us to doubt whether the apparent difference between the two Governments is not rather one of definition than of principle. Not only is the right of search, properly so called, disclaimed by Great Britain, but even that of mere visit and inquiry is asserted with qualifications inconsistent with the idea of a perfect right.

In the despatch of Lord Aberdeen to Mr. Everett of the 20th of December, 1841, as also in that just received by the British Minister in this country, made to Mr. Fox, his Lordship declares that if, in spite of all the precaution which shall be used to prevent such occurrences, an American ship, by reason of any visit or detention by a British cruiser, "should suffer loss and injury, it would be followed by prompt and ample remuneration;" and in order to make more manifest her intentions in this respect, Lord Aberdeen, in the despatch of the 20th of December, makes known to Mr. Everett the nature of the instructions given to the British cruisers. These are such as, if faithfully observed, would enable the British Government to approximate the standard of a fair indemnity. That Government has in several cases fulfilled her promises in this particular, by making adequate reparation for damage done to our commerce. It seems obvious to remark, that a right which is only to be exercised under such restrictions and precautions, and risk, in case of any assignable damage, to be followed by the consequences of a trespass, can scarcely be considered anything more than a privilege asked for, and either conceded or withheld on the usual principles of international comity.

The principles laid down in Lord Aberdeen's despatches, and the assurances of indemnity therein held out, although the utmost reliance was placed on the good faith of the British Government, were not regarded by the Executive as a sufficient security against the abuses which Lord Aberdeen admitted might arise in even the most cautious and moderate exercise of their new maritime police; and therefore, in my Message at the opening of the last session, I set forth the views entertained by the Executive on this subject, and substantially affirmed both our inclination and ability to enforce our own laws, protect our flag from abuse, and acquit ourselves of all our duties and obligations on the high seas. In view of these assertions, the Treaty of Washington was negotiated, and, upon consultation with the British negotiator as to the quantum of force necessary to be employed in order to attain these objects, the result to which the most deliberate estimate led was embodied in the eighth article of the Treaty.

Such were my views at the time of negotiating that Treaty, and such, in my opinion, is its plain and fair interpretation. I regarded the eighth article as removing all possible pretext, on the ground of mere necessity, to visit and detain our ships upon the African coast because of any alleged abuse of our flag by slave traders of other nations. We had taken upon ourselves the burden of preventing any such abuse, by stipulating to furnish an armed force regarded by both the high contracting parties as sufficient to accomplish that object.