

**A REPLY TO THE
LETTER OF J.
FENIMORE COOPER**

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A Reply to the Letter of J. Fenimore Cooper by Caleb Cushing

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REPLY

TO THE LETTER

OF

J. FENIMORE COOPER.

BY

ONE OF HIS COUNTRYMEN.

Caleb Cushing.

C.
BOSTON.

PUBLISHED BY J. T. BUCKINGHAM,

1834.

TO J. FENIMORE COOPER.

I EXERCISE a common right, as one of your countrymen, in replying to some passages of the Letter, which you have recently addressed to the whole people of the United States. In doing this, it is no part of my design to comment particularly on those topics of alleged personal grievance, which occupy the chief part of your communication. We, of the general mass of your fellow-citizens, who were accustomed to read your works with delight,—who admired your genius,—who knew you only as an eminently popular novelist,—who prized your literary reputation as parcel of our own great national heritage,—we, the indiscriminate people of the United States, regard your Letter, so far as it relates to yourself individually, with unmingled emotions of mortification and sorrow. There is no party-feeling in this, either American or European. If not a solitary word of American politics had appeared in your Letter, our sentiments on this point would have been precisely the same ; for, whatever be our party-banner, we universally honor and esteem the nationality of spirit, which is alike predominant in the Pioneers or the Prairie, and in the more didactic page of the Notions of the Americans. Neither are we *doctrinaires*, *Orleanistes*, foreign diplomatic agents, or aught else, which there may be, of transatlantic name, to rack your imagination with terrors of persecution abroad, and slander at at home. None of these considerations affect our judge-

ment. But we grieve to see this new chapter in the record of the infirmities of genius. We deplore a glorious planet darting madly from its empyrean sphere. We seem to be lessened in our own estimation, humbled, depressed as by an overwhelming evidence of our universal human weakness, in witnessing this aberration of the great faculty of intellect, in beholding the weak spots in higher and nobler mind, thus laid bare, self-exposed, to the profanation of vulgar gaze. Participating in all these feelings, and your name, as an author, being coupled in my memory with so many reminiscences of pride and of pleasure, I abstain, therefore, absolutely and entirely, from any remark upon your exposition of the controversy between you and certain of the newspapers of New-York.

My business, at present, is with the extraordinary political opinions, which,—in the professed intention of exemplifying the spirit of foreign imitation, characteristic, as you say, of this country,—you have introduced into your Letter.

In the very heat and agony of a mighty political struggle,—the mightiest since the days of the Revolution,—you have gratuitously thrown yourself into the midst of the strife. Quitting the field of honor whereon you were nearly supreme, you have descended into the common arena of party contention, totally unfitted for the contest by all the habits and occupation of a life-time, to gain a dubious honor if successful, but under the assurance, meanwhile, of almost inevitable discomfiture. Aspiring to be more profound, logical, learned, and far-seeing than Clay and Webster, in the comprehension of the great principles of national polity,—more critical, acute, and penetrative in the construction of the Constitution than Calhoun and Leigh,—you deny to the Senate of the United States, all right to express, and by conse-

quence to entertain, any opinion upon the executive acts of the Chief Magistrate. He may, directly and undisguisedly, violate the Constitution; but they must be blind, dumb, senseless, even in view of the prostration of their own constitutional powers, as a co-ordinate branch of Congress, and as the representations of the States of the Union. In your apprehension, the Resolutions of the Senate are unconstitutional, and fraught with mischief; but in the Protest of the President, and the series of outrageous measures which preceded it, there seems to be nothing to alarm the most timid understanding. Therein, you and the Nation are at issue; and it were idle to touch upon the points of this question, after the masterly and irrefragable constitutional arguments, with which Mr. Webster has justified his vote in the Senate. At the same time, whilst you were coming to such a conclusion, with the Resolutions and Protest before you, and whilst you were seeking for examples of English analogies and English precedents obtruded into the politics of the United States, it is somewhat marvellous that you should have overlooked the remarkable feature of the Protest itself, namely, the express assertion of an *inherent* executive authority in the President, prior to the Constitution, a sort of divine right drawn from analogy of the royal prerogatives of the kings of Great Britain. You endeavor, by elaborate construction, to make out a case of foreign imitation against the Senate: you shut your eyes to a case, in the self-same transaction, of monstrous and most dangerous foreign imitation, avowed on the part of the President.

But *my* quarrel is not with these doctrines or averments of your Letter. What I specially deny and impugn is the strange heresy it puts forth,—a misconception so palpable as not even to possess the faint lustre of mere paradox,—that, in the United States, the great object of

public suspicion and watchfulness should be the legislative, rather than the executive, department of the government.

That your declared opinions, and my remarks upon them, may be clearly understood, I premise a few extracts from your Letter. No injustice will be done to you in separating them from the context, because they are essentially independent observations, involving ideas extrinsic to your argument, and to be construed by reference to the general principles of political science.

In one place you say :

'This measure of withholding the supplies is peculiarly English ; it is the means by which Parliament has destroyed whatever of balance the government ever had, and is the simplest, the most obvious, and the most dangerous of all the modes of legislative usurpation. It is time to begin to consider our legislators in their true character ; not as sentinels to watch the executive merely, but as those of the public servants the most likely to exceed their delegated authority.'

Again you say :—

'If this Union ever shall be destroyed by any errors or faults of an internal origin, it will not be by executive, but by legislative, usurpation. The former is easily enough restrained, while the latter, cloaked under the appearance of legality and representation, is but too apt to carry the public sentiment with it. England has changed its form of government, from that of a monarchy to that of an exceedingly offensive aristocracy, precisely in this manner.'

And yet again, after ascribing to the President exclusive control of the public treasure, in the offensive, and universally repudiated, terms of the Protest, you say :—

'Many who read this Letter will feel disposed to exclaim against a state of things, which places so much power in the hands of one man. I see far less apprehension of executive than of legislative usurpation, in this country. Still, I am willing to admit that the President has too much authority for our form of government.'

Well, indeed, might you admit this, if the high prerogative doctrines of the Protest were sanctioned by the text or spirit of the Constitution. But, allow me to observe, you misapprehend the great source of danger in our form of government, not less than you do the extent of the powers of the President. I undertake to show that the general position, which you thus deliberately and repeatedly state, is false in principle, and that it is mischievous in application.

It is quite manifest how you arrived at such an erroneous opinion. It was by the self-same course which you yourself so pointedly condemn, the unconsidered adoption of precedents from the history of England. You perceived that, in very modern times, the English Parliament, or rather, the House of Commons, had been the successful antagonist of the Crown. You remembered that, in the days of the Commonwealth, it had actually usurped and appropriated the whole public authority. You knew how, during the two last reigns, it had practically exercised complete control over executive measures by means of its power to withhold supplies, or otherwise by its votes to embarrass the royal ministers. You had witnessed its late innovation upon the constitution of government, in the laws of parliamentary reform. Out of these and other analogous acts of the English Parliament, you have extracted a general political theory, that usurpation is to be apprehended from the legislative branch of government, rather than from the executive, that great object of patriot and republican jealousy in all ages of the world. A moment's reflection will satisfy you that this is an erroneous view of the facts. Grant that, in England, 'Parliament has destroyed whatever of balance the government ever had,' and this, too, by 'legislative usurpation.' What *usurpation*? Why, truly, this which you thus stigmatize as usurpation, and hold up in terror to us, lest we should be over watchful of the monarchical element of our Constitution, and over trustful in the representative and popular element,—this usurpation it is, which gave back to England, by wresting it from the tyranny of the Crown, all that of great and free, in her institutions, which renders them a name of glory among the nations of Europe. Her statesmen boast of her limited monarchy. It is limited, solely by reason of the functions acquired to Parliament, through what you designate as 'legislative usurpation.'

But the case is applicable to our institutions only as it illustrates one of the grand political aims of the age, *abstracting power from the executive, and transferring it to the legislative*, branch of the government. It is no otherwise applicable, because, with us, the executive and the legislative authorities are alike public functionaries, with limited power delegated to them by the Constitution. And which of these authorities, the legislative or the executive, is most to be apprehended by the constituent people, is not a question of mere English analogy, as you put it,—but a question of human motive and action, tested by experience and principle, and considered with reference to our own peculiar Constitution.

Independently of the misapplied English precedents, from which you infer the lamb-like innocence of the executive as compared with the legislative authority, under our Constitution, you cursorily allude to some other considerations, which demand a brief notice. One is, the faculty of Congress, or either branch of it, as already touched upon, to refuse its assent to the annual appropriations. I reply, that the power of doing this belongs to the Senate and the House of Representatives severally, by positive grant of the Constitution; and the exercise of a power, thus conferred, cannot be justly termed an act of usurpation. Congress, or either branch of it, has the same right to negative an appropriation, which the President deems essential to the public service, as the President has to veto a bank-bill or a land-bill, or a bill for internal improvements, which Congress deems for the welfare of the Union. You say, that in so doing, Congress is not withholding *its* supplies, but *our* supplies; and, in so doing, likewise, the President is not vetoing *his* bank or *his* public improvements, but *our* bank and *our* public improvements. You say, that for a legislator to oppose granting supplies in order to 'embarrass an administration,' is a direct insult to