

**ENQUIRY INTO THE VALIDITY OF THE  
BRITISH CLAIM TO A RIGHT OF  
VISITATION AND SEARCH OF AMERICAN  
VESSELS SUSPECTED TO BE ENGAGED IN  
THE AFRICAN SLAVE-TRADE**

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Enquiry into the Validity of the British Claim to a Right of Visitation and Search of American Vessels Suspected to Be Engaged in the African Slave-Trade by Henry Wheaton

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**HENRY WHEATON**

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# ENQUIRY

INTO THE

VALIDITY OF THE BRITISH CLAIM

TO

A RIGHT OF VISITATION AND SEARCH

OF

*American Vessels*

SUSPECTED TO BE ENGAGED IN THE

AFRICAN SLAVE-TRADE;

UNIV. OF  
CALIFORNIA

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MINISTER OF THE UNITED STATES AT THE COURT OF BERLIN—AUTHOR  
OF "ELEMENTS OF INTERNATIONAL LAW."

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## ENQUIRY.

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UNION OF  
CALIFORNIA

THE message of the President of the United States to Congress at the opening of the present session, states in very brief, but significant and decided terms, the ground taken by the American Government upon the question of the right of visitation and search recently claimed and exercised by Great Britain in the African seas, and other parts of the Atlantic Ocean, which can leave no doubt as to the fixed determination of the cabinet of Washington upon that important subject. It is hoped that the other matters in dispute between the British and American Governments may admit of a pacific and satisfactory adjustment, consistently with the honour and essential interests of both nations.\* But the question as to the exercise of the

\* The author of these sheets has recently published in the "Revue Etrangère et Française de Legislation," &c. an essay upon the incidental question of the criminal prosecution commenced against Alexander M'Leod in the American courts, in which the main question relating to the destruction of the steam vessel, the *Caroline*, by order of the British authorities, in Upper Canada, is also partially examined. This latter point is understood to be included among the objects of Lord Ashburton's mission.

right of visitation and search, in time of peace, upon the high seas, in respect to the merchant-vessels of a nation, which, has not expressly assented to its exercise, we fear may be attended with more difficulties, both intrinsic, and those arising from peculiar circumstances in the mutual relations of the two countries. We say the "question of the *right of visitation and search*, in time of peace upon the high seas, in respect to the vessels of a nation which has not expressly assented to its exercise;" for such, we shall hereafter endeavour to show, is the true nature of the pretension set up by Great Britain on this occasion. It becomes, however, indispensably necessary, before entering on the question as to the validity of this pretension, to endeavour to dispel the thick cloud of prejudice which seems to rest on the minds of many sincere friends of humanity in Europe as to the principles asserted, and the conduct observed by the North American nation and its rulers in respect to the African slave-trade. Summoned, as it were, at the bar of nations, to answer the accusation of refusing to sacrifice what they deem their just maritime rights, for the alleged purpose of suppressing a traffic so justly stigmatized by every civilized and Christian people as a crime against humanity,—the people and Government of the United States have a just claim to be heard before they are finally condemned by the public opinion of the world on so grave a charge. Had the allegation of insincerity as to their desire to contribute by every means in their power, consistently with the independence and honour of their



national flag, towards the final and complete suppression of this odious traffic,—in the guilt of which both Europe and America too long participated, though (as we shall also attempt to show) in unequal proportions,—had, we say, this allegation been preferred merely through the British party-press, the writer of these sheets would not have deemed it either necessary or proper to take up his pen in order to vindicate the character of his country from such a foul stigma. But as the same allegation has been more than insinuated in public documents, to which are affixed the signatures of statesmen for whose character he feels the most unfeigned respect, and in periodical works, understood to represent the views of at least one of the great parties which divide the British State,—he cannot forbear from endeavouring to repel what he must regard as an unjust and groundless imputation. This becomes more especially necessary with respect to the four great European Powers, who have recently acceded to the compact proposed by Great Britain for the alleged purpose of suppressing the slave-trade, and with whom the United States have ever been, and still desire to remain, on terms of the strictest friendship. The maritime resources of America are not for herself alone: they are for all who have a common interest in the free navigation of the seas, and the general balance of maritime power. When these resources shall be more completely developed, they will, we trust, be devoted, not to any mere selfish purpose, but to the support of that great cause common to every civilized and

commercial nation possessed of naval power inferior to the greatest.

As the subject in question has no connexion with the writer's official duties in the particular mission confided to him, he will treat it with that freedom which may become the citizen of a free state, but, at the same time, with all the deference due to those from whom he is constrained to differ, whether official persons or others.

In order to dissipate the prejudices which have gathered over this subject, it becomes necessary to revert to the original progress of the traffic in question, so far as the United States and Great Britain are both concerned.

The testimony of authentic history attests the notorious facts, that the African slave-trade was carried on by the British nation for more than two centuries under the patronage of its Government, and protected by charters of monopoly and public treaties, not for the supply of their own colonies merely, but those of France and Spain, before even the slightest effort had been made to awaken the public mind to a sense of its enormous iniquity. Under the first Stuart kings of England, charters were granted incorporating joint-stock companies, endowed with the exclusive privilege of carrying on trade with Africa. The operations of these companies were sustained by all the power and patronage of the British Government, both in legislative measures and diplomatic acts. The memorable treaty of Utrecht, 1713,—by which the Spanish succession-war was termi-

nated, the balance of power in Europe confirmed, and the maritime law of nations definitively settled,—so far as depending on conventions, granted “to her Britannic Majesty, and to the company of her subjects established for that purpose (the South Sea Company,) as well the subjects of Spain, as all others being excluded, the contract for introducing negroes into several parts of the dominions of his Catholic Majesty in America (commonly called *El facto de el Assiento de negros,*) at the rate of 4800 negroes yearly, for the space of thirty years successively.”\*

In the debate which took place in the House of Commons on the 16th of June, 1815, relating to the negotiations at the Congress of Vienna respecting this matter, Lord Brougham stated, that “by the treaty of Utrecht, which the execrations of ages have left inadequately censured, Great Britain was content to obtain, as the whole price of Ramillies and Blenheim, an additional share of the accursed slave-trade.”

Mr. C. Grant said in the House of Commons on the 9th February, 1818, that “In the beginning of the last century we deemed it a great advantage to obtain by the Assiento contract the right of supplying with slaves the possessions of that very power we were now paying for abolishing the trade. During the negotiations which preceded the peace

\* Treaty of Commerce and Navigation, signed at Utrecht, 1713, between Great Britain and Spain, art. 12.—(DUMONT, Tom. viii. P. ii. p. 344.)