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FROM THE BOSTON GAZETTE.  
MEMORIAL.

To the honorable the SENATE and House of REPRESENTATIVES of the United States.  
The Memorial and Remonstrance of the Legislature of Massachusetts.

WHEN the Government of a free People is felt to be oppressive on the Community; when its measures appear to originate in imperfect conceptions of the interests of the whole, or inattention to the important concerns of any considerable portion; a decent respect for the opinions of their fellow-citizens, and a just sense of their own rights, require of that part of the Society which feels oppressed or alarmed, a prompt and explicit declaration of their opinions. Such a course of proceeding, by producing early and frequent public discussions, is calculated to support all such measures as are wise and expedient; and on the other hand it furnishes a seasonable opportunity to the Government to abandon all such as are found to be impracticable or injurious; it is calculated at once to silence the murmurs of the People if they are unfounded, and to remove all their just causes of complaint.

The Citizens of Massachusetts are firm and zealous in the vindication of their rights; but their habits and their principles equally forbid a resort to violent, disorderly, or unconstitutional means for that purpose. They indulge a pride in the belief that the Constitutions of government under which they live are so framed, as to afford a peaceable remedy, for every grievance to which they may be subjected. They have accordingly by petitions from various parts of the State, expressed to the President of the United States, their sentiments on the oppressive operation, and destructive tendency, of the Embargo laid on their ships and vessels in December 1807. This Legislature also, in the same spirit have heretofore endeavoured through their Senators and Representatives, to communicate to the Government of the United States, their opinions and views of the system of policy lately adopted and pursued by the Administration.— They have seen with regret that these peaceable and respectful efforts have not produced any relaxation of the rigorous measures complained of; but that on the contrary, it has been thought proper to enforce the Embargo by a late act, exceeding in severity all that preceded it; an act, which if continued in operation will, as we apprehend, not only complete the destruction of the commercial prosperity, but prove highly dangerous to the public liberty, and domestic peace, of this People. This Legislature have also felt the most serious alarm from perceiving the other measures, lately proposed and contemplated in the Congress of the United States. At this awful and momentous crisis we ought not to affect ignorance of those events, which on ordinary occasions a sense of Decorum might forbid our noticing. It would be a base dereliction of duty, if at such a moment as the present, we should permit a too scrupulous regard to mere forms to prevent our attempting every thing possible for the security of our constituents, and for the peace and happiness of our common country. This Legislature therefore with the plainness and sincerity which becomes the Representatives of a free People, and with all the respect which is due to the Honorable Body which they address, do present this, their solemn Remonstrance, against the course of measures which is now oppressing this part of the U. States.

Commerce has been one of the chief employments of the People of New-England from the first settlement of the Country; and their success has promoted and abundantly rewarded the labours of Agriculture. This latter in its turn has extended and encouraged Commerce; and from the joint operation of these causes, New-England, without any great staple, and without any peculiar local advantages, has constantly and rapidly increased in wealth, prosperity, and power. If however the advantages of Commerce were less obvious and less important, yet the habits of the Country so long and firmly established, could not be suddenly changed, without producing consequences the most distressing and destructive. Our Husbandmen and Mariners cannot by an act of Government be converted into Manufacturers; nor will our Merchants and Mechanics ever consent to abandon their cities, and retire from the Sea shore, to clear up and cultivate the Wilderness. The History of the world has demonstrated that even the most despotic Governments have hardly ever succeeded in changing the habits of a great People; and most certainly in a free Country it cannot be attempted with any prospect of success. The measures adopted by the British Government, to interdict or controul our Commerce, were among the most powerful causes of the Revolution. The Power of establishing Commerce is enumerated in the Declaration of our Independence, among the essential rights of sovereignty; and in the articles of Confederation, Trade, Religion and the Sovereignty of the States, are mentioned as the three principal objects, which that compact was intended to protect. In the present Constitution of the United States, while the Government are entrusted with a greater and more adequate power for the protection and extension of Commerce, the caution and jealousy of the People have

imposed various restrictions on that power. The Government are prohibited from imposing any tax or duty whatsoever on Exports, lest in virtue of that authority, they might in any degree embarrass the exportation of our produce.— The People have manifested a similar disposition in other articles of the Constitution; and if at the time of framing and adopting that Instrument, any question had arisen as to the extent of the Power, or the duty of the Government in this particular; there can be no doubt that a clause would have been inserted, most explicitly declaring the interests of Commerce to be one of the principal inducements for forming the Union, and its encouragement and defence to be among the first duties of the Government; while the right to annihilate or obstruct it would have been explicitly denied. For a long time after the establishment of this Government, the Fisheries, Navigation, and Trade of the Country were protected and widely extended. They furnished almost the whole revenue of the United States, and encouraged universal industry. When in the year 1794 the Commercial rights of the Nation were assailed by Great-Britain, the immortal Washington, by dignified, fair and impartial negotiation procured for his Country ample compensation for past injuries, and security against future aggressions. In the year 1798, our Government under similar circumstances attempted in the same manner to obtain from France, indemnity for outrages, and a recognition of our rights; and when fair negotiation was found to be fruitless, they did not hesitate immediately to adopt measures of defence, becoming an independent and powerful People. The success of the wise and patriotic measures, and the universal satisfaction manifested by the People in their effects, seemed to have decided forever the true Policy of the United States. But in the year 1806, when our Commercial rights were again attacked by the same Nation, which had but imperfectly atoned for her injuries in 1798, and in a manner more unwarrantable, insolent, and outrageous, than before, the People expected that the Government would have recourse to the same Policy which had formerly been crowned with such signal success.— Instead of prompt and vigorous measures of defence, they have seen the Government retire from the conflict; and by annihilating their whole foreign Commerce, tacitly confess, that they are unwilling, or unable, to protect it. This apparent inability or indisposition to resist aggression, has furnished a pretence to another Prince, to retaliate on his enemy through our unprotected rights. Thus the United States are placed in a situation, unprecedented it is believed in the History of the world, being involved at the same moment in serious controversies with two most powerful Nations, who are themselves at war with each other.

The interdiction of foreign Commerce for an indefinite period, by perpetual Laws, is justly considered as a total annihilation of it. The people of this Country are not accustomed to class among their rights, such enjoyments and privileges as depend on the will of any set of men whatever; under such circumstances they would cease to be the rights of a free People. Yet it is obvious that the acts laying an Embargo have suspended their Commercial rights; and if those acts are Constitutional, these rights can never be restored without a concurrent act of all the Branches of the federal Government. The events now passing at the seat of Government strongly exemplify the force of this remark.— If one branch of the Legislature, should be unanimously inclined to remove the Embargo, and even if the other branch should concur, yet the President of the United States may prevent the passing of an act for such a purpose; and if afterwards only twelve members of the Senate should adopt his policy and unite in supporting his measures, the Embargo must remain in force. Most certainly the People of this Country never intended to subject to the discretionary power of thirteen men, one of their most essential and invaluable rights. If the existence, or the apprehension, of war would justify a temporary Embargo, the spirit of the Constitution, would demand that it should be imposed for a short and definite period; so as to require from time to time the same concurrence of opinion to continue it, which now is required for its removal.

In the act of Congress passed on the ninth day of January last for enforcing the preceding Embargo act, this Legislature see with extreme pain a perseverance in the system, which has proved so injurious to the Country. But they are still more alarmed from examining some of the provisions of this act, which appear to them hostile to the dignity and independence of this Commonwealth, and subversive of the civil liberty and constitutional rights of its citizens.— They see there, the rights of Individuals subjected to the arbitrary will of an Executive officer, instead of being defined and secured by standing laws: secret and variable instructions and orders of the President, entitled to equal respect with the laws of the land: an indefinite and almost unlimited authority given to the officers of the Customs, without any warrant from a civil Magistrate, to search for and seize the property of the Citizens: excessive sureties required of men who are not even charged with any offence; and excessive fines and penalties imposed; individuals expo-

sed to losses and penalties, for actions which were lawful at the time of committing them: and the benefits of a trial by Jury in many cases virtually denied. If any Citizen who is aggrieved should apply for redress to the laws and judicial Courts of the Commonwealth, their processes may be impeded, their Officers resisted, and their authority put at defiance, by the standing army of the United States under the command of any inferior officer, empowered by the President. Thus whenever a petty officer shall be found hardy and adventurous enough to exercise the authority conferred by this act, the sovereignty and independence of the State will be humbled in the dust; or its Government must vindicate by force its dignity and its honor, and may be consequently involved in a civil War.

This Legislature cannot review without the most painful emotions the measures of the general Government, which they have here been considering. They cannot without the most gloomy apprehensions, contemplate the probable consequences of a perseverance in those measures. They are constrained respectfully, but unequivocally, to declare their conviction that the several laws before referred to, which interdict the foreign Commerce of the United States, and which have imposed numerous embarrassments on the coasting trade, must have originated in a misconstruction of the federal Constitution; that they are contrary to the spirit and intention of that instrument; and are not warranted by any of the powers therein given by the People to the Congress of the United States. In the hope of preventing any further evil consequences from these measures, and with the most ardent desire to preserve inviolate the Constitution of these States, and to remove every source of discontent and jealousy among the different members of the Union, this Legislature do solemnly remonstrate against the several acts of Congress for imposing and enforcing the Embargo; and do earnestly request your honorable body to take the same into your most serious consideration, and by repealing them to restore this People to their former enviable state of Freedom, Prosperity, and Happiness.

It is impossible to contemplate the repeal of the several acts relating to the Embargo, without considering the various substitutes for this measure, which have been proposed, and which are now before the Public. This Legislature feel bound to express the strong and decided opinion they entertain on this subject, before any of these proposed measures shall be adopted. The expression of this opinion is required by a just sense of their own rights, and those of the State which they represent; and also by a due regard to the sentiments and feelings of their constituents, which are well known to the individuals of this Legislature, and which are strongly displayed in the numerous petitions and memorials daily arriving from all parts of the Commonwealth.

The prohibition of all intercourse with France and Great-Britain and their respective dependencies, would probably prove fruitless and inefficient, from the extreme difficulty of enforcing its observance; and would thus serve to bring into contempt the laws and government of the country; or if enforced, it would impose embarrassments on Commerce, nearly as fatal as the obstructions created by the present Embargo. It would soon become a restriction only on the orderly and well disposed part of the community; and would furnish opportunities and inducements to the officers of Government, by occasional indulgence and connivance, to promote the interests of their personal or political friends. But in another view of this measure, it appears still more serious and alarming. It is obvious that if the Embargo was removed, our citizens would have but little intercourse with France or her dependencies. The total disregard of the Laws of Nations, and the obligations of treaties, manifested by that Government;—the seizure and detention of Neutral property in all parts of her dominions;—the unprecedented Decrees against Neutral Commerce promulgated at Berlin, at Milan, and at Bayonne; would deter our citizens from adventuring in Commerce with her subjects.— The proposed Non-intercourse therefore would in effect apply solely to Great-Britain. The natural tendency of this measure which is undoubtedly if not intended by some of its advocates, would be to involve the nation in War with Great-Britain, a measure which would necessarily produce a fatal alliance with France.

The project of arming our Merchantmen to resist seizures by either of the Belligerents, appears to manifest a spirit, which when excited in a just cause will always be warmly approved and vigorously supported by the People of Massachusetts. They cannot cease to lament, that some portion of this spirit had not been exhibited in resisting the first outrage on our rights, by the Berlin Decree of November 1806. If our Government had at that time expressed a strong sense of this Outrage on the nation, and a firm resolution to vindicate and maintain its rights, they would have been most cordially and zealously supported by men of all political parties. This project if adopted now without limitation, however it may be intended by those who propose it, would speedily and inevitably lead to a war with Great-Britain. France has comparatively few Cruizers on the Ocean, which is covered by the ships of her enemy. Our