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Mr. Adams' reply to the preceding Letter.
Washington, 30th Dec. 1828.

Messrs H. G. Otis, &c.

GENTLEMEN—I have received your letter of the 26th ult. and recognizing among the signatures to it, names of persons for whom a long and on my part uninterrupted friendship, has survived all the bitterness of political dissension, it would have afforded me pleasure to answer with explicitness and candor not only those persons, but each and every one of you, upon the only questions in relation to the subject matter of your letter, which as men or as citizens I can acknowledge your right to ask; namely, whether the interrogator was himself one of the persons, intended by me in the extract which you have given, from a statement authorized by me and published in the National Intelligencer of 21st Oct. last.

Had you or either of you thought proper to ask me this question, it would have been more satisfactory to me to receive the inquiry separately from each individual, than arrayed in solid phalanx, each responsible not only for himself but for all others. The reasons for this must be so obvious to persons of your intelligence, that I trust that you will spare me the pain of detailing them.

But, gentlemen, this is not all. You undertake your inquisition, not in your own names alone, but as the representatives of a great and powerful party, dispersed throughout the States of Massachusetts and Maine: A party commanding, at the time to which your inquiries refer, a devoted majority in the Legislature of the then United Commonwealth; & even now, if judged of by the character of its volunteer delegation, of great influence and respectability.

I cannot recognize you, on this occasion, as the representatives of that party, for two reasons—first, because you have neither produced your credentials for presenting yourselves as their champions, nor assigned satisfactory reasons for presenting yourselves without them. But, secondly, and chiefly, because your introduction of that party into this question is entirely gratuitous. Your solemn declaration that you do not know that the federal or any other party, at the time to which my statement refers, intended to produce the dissolution of the Union, and the formation of a new confederacy, does not take the issue, which your own statement of my charge (as you are pleased to consider it) had tendered. The statement authorized by me, spoke, not of the federal party, but of certain leaders of that party. In my own letters to the members of Congress, who did me the honor at that agonizing crisis to our National Union, of soliciting my confidential opinions upon the measures under deliberation, I expressly acquitted the great body of the federal party, not only of participating in the secret designs of those leaders, but even of being privy to or believing in their existence. I now cheerfully repeat that declaration. I well know that the party were not prepared for that convulsion, to which the measures and designs of their leaders were instigating them; and my extreme anxiety for the substitution of the non-intercourse for the embargo arose from the imminent danger that the continuance and enforcement of this latter measure would promote the views of those leaders, by goading a majority of the people and of the legislature to the pitch of physical resistance, by State authority, against the execution of the laws of the Union, the only effectual means by which the Union could be dissolved. Your modesty has prompted you to disclaim the character of leaders of the federal party at that time. If I am to consider this as more than a mere disavowal of form, I must say that the charge, which I lament to see has excited so much of your sensibility, had no reference to any of you.

Your avowed object is controversy. You call for a precise state of facts and evidence—not affecting, so far as you know, any one of you, but to enable you fairly to meet and to answer it.

And you demand,

1. Who are the persons designated as leaders of the party prevailing in Massachusetts, in the year 1808, whose object I assert was, and had been, for several years, a dissolution of the Union, and the establishment of a separate confederacy; and
2. The whole evidence on which that charge is founded.

You observe that it is admitted in the statement of the charge, that it is not proveable in a court of law, and your inference is, that I am of course not in possession of any legal evidence, by which to maintain it. Yet you call upon me to name the persons affected by the charge; a charge in your estimate deeply stigmatizing upon those persons; and you permit yourselves to remind me, that my sense of justice and self-respect oblige me to disclose all that I possess. My sense of justice to you, gentlemen, induces me to remark, that I leave your self-respect to the moral influences of your own minds,

without presuming to measure it by the dictation of mine.

Suppose, then, that in compliance with your call, I should name one, two, or three persons, as intended to be included in the charge. Suppose neither of those persons to be one of you. You however have given them notice, that I have no evidence against them, by which the charge is proveable in a court of law—and you know, that I, as well as yourselves, am amenable to the laws of the land. Does your self-respect convince you that the persons so named, if guilty, would furnish the evidence against themselves, which they have been notified that I do not possess? Are you sure that the correspondence, which would prove their guilt, may not in the lapse of 25 years have been committed to the flames! In these days of failing and of treacherous memories, may they not have forgotten that any such correspondence ever existed? And have you any guarantee to offer, that I should not be called by a summons more imperative than yours, to produce in the temple of justice the proof, which you say I have not, or to be branded for a foul & malignant slanderer of spotless & persecuted virtue? Is it not besides imaginable that persons may exist, who tho' twenty-five years since driven in the desperation of disappointment, to the meditation and preparation of measures tending to the dissolution of the Union, perceived afterwards the error of their ways, & would now gladly wash out from their own memories their participation in projects, upon which the stamp of indelible reprobation has past? Is it not possible that some of the conspirators have been called to account before a higher than an earthly tribunal for all the good and evil of their lives; and whose reputations might now suffer needlessly by the disclosure of their names? I put these cases to you, gentlemen, as possible, to show you that neither my sense of justice nor my self-respect does require of me to produce the evidence for which you call, or to disclose the names of persons, for whom you have and can have no right to speak.

These considerations appear indeed to me so forcible, that it is not without surprise, that I am compelled to believe they had escaped your observation. I cannot believe of any of you that which I am sure never entered the hearts of some of you, that you should have selected the present moment, for the purpose of drawing me into a controversy not only with yourselves, but with others, you know not whom—of daring me to the denouncement of names, which twenty-years since I declined committing to the ear of confidential friendship; and to the production of evidence which, though perfectly satisfactory to my own mind, and perfectly competent for the foundation of honest & patriotic public conduct, was adequate in a court of law neither to the conviction of the guilty, nor to the justification of the accuser, and so explicitly pronounced by myself.

You say that you have no design nor wish to produce an effect on any political party or question whatever,—nor to enter into a vindication of the measures publicly adopted & avowed by the persons against whom the above charge has been made. But can you believe that this subject should be discussed between you and me, as you propose, when calling upon me for a statement, with the avowed intention of refuting it, and not produce an effect on any political party or question? With regard to the public measures of those times & the succeeding, which you declare to have had your sanction and approbation, it needs no disclosure now, that a radical and irreconcilable difference of opinion between most of yourselves and me existed. And can you suppose that in disclosing names and stating facts, known perhaps only to myself, I could consent to separate them from those public measures, which you so cordially approved and which I so deeply lamented? Must your own defence against these charges forever rest exclusively upon a solemn protestation against the natural inference from the irresistible tendency of action to the secret intent of the actor? That a statesman who believes in human virtue should be slow to draw this inference against such solemn asseverations, I readily admit; but for the regulation of the conduct of human life, the rules of evidence are widely different from those, which receive or exclude testimony in a court of law. Even there, you know, that violent presumption is equivalent, in cases affecting life itself, to positive proof; and in a succession of political measures through a series of years, all tending to the same result, there is an internal evidence against which mere denial, however solemn, can scarcely claim the credence even of the charity that believeth all things.

Let me add that the statement authorized by me, as published in the National Intelligencer, was made, not only without the intention, but without the most distant imagination of offending you or of injuring any one of you. But, on the contrary, for the purpose of expressly disavowing a charge

which was before the public, sanctioned with the name of the late Mr. Jefferson, imputing to certain citizens of Massachusetts treasonable negotiations with the British government during the war, and expressly stating that he had received information of this from me. On the publication of this letter, I deemed it indispensably due to myself, and to all the citizens of Massachusetts, but only to deny having ever given such information, but all knowledge of such a fact. And the more so, because that letter had been published though without my knowledge, yet I was well assured from motives of justice and kindness to me. It contained a declaration by Mr. Jefferson himself, frank, explicit and true, of the character of the motives of my conduct, in all the transactions of my intercourse with him, during the period of the embargo. This was a point upon which his memory could not deceive him, a point upon which he was the best of witnesses; and his testimony was the more decisive because given at a moment, as it would seem, of great excitement against me upon different views of public policy even then in conflict and producing great exaceration in his mind.—The letter contained also a narrative of a personal interview between himself and me in March 1808, and stated that I had then given him the information of facts which induced him to consent to the substitution of non-intercourse for the embargo; and that I had apprised him of this treasonable negotiation by citizens of Massachusetts, to secede from the Union during the war, and perhaps rejoin after the peace. Now the substitution of the nonintercourse for the embargo, took place twelve months after this interview, and at a succeeding session of Congress, when I was not even a member of that body. The negotiation for seceding from the Union with a view to rejoin it afterwards, if it ever existed, must have been during the war. I had no knowledge of such negotiation, or even of such a design. I could therefore have given no such information.

But in giving an unqualified denial to this statement of Mr. Jefferson, and in shewing that upon the face of the letter itself it could not be correct, it was due to him to show that the misstatement on his part was not intentional; that it arose from an infirmity of memory, which the letter itself candidly acknowledged; that it blended together in an indistinct mass the information which I had given him in March, 1808, with the purport of confidential letters, which I had written to his and my friends in Congress a year later, and with events, projects, and perhaps mere suspicions, natural enough as consequences of the preceding times, but which occurred, if at all, from three to six years after, and of which he could not have had information from me. The simple fact of which I apprised Mr. Jefferson was, that, in the summer of 1807, about the time of what was sometimes called the affair of the Leopard and Chesapeake, I had seen a letter from the Governor of Nova Scotia to a person in Massachusetts, affirming that the British government had certain information of a plan by that of France, to conquer the British possessions and effect a revolution in the United States, by means of a war with Great-Britain. As the United States and Great-Britain were in 1807 at peace, a correspondence with the Governor of Nova Scotia, held by any citizen of the United States, imported no violation of law; nor could the correspondent be responsible for anything which the Governor might write.—But my inferences from this fact were, that there existed between the British government and the party in Massachusetts opposed to Mr. Jefferson, a channel of communication through the Governor of Nova Scotia, which he was exercising to inflame their hatred against France and their jealousies against their own government. The letter was not to any leader of the federal party; but I had no doubt it had been shown to some of them, as it had been to me, without injunction of secrecy; and, as I supposed, with a view to convince me that this conspiracy between Napoleon and Mr. Jefferson really existed.—How that channel of communication might be further used was matter of conjecture; for the mission of Mr. John Henry was nine months after my interview with Mr. Jefferson, and precisely at the time when I was writing to my friends in Congress the letters urging the substitution of the non-intercourse for the embargo. Of Mr. Henry's mission I knew nothing till it was disclosed by himself in 1812.

It was in these letters of 1808 and 1809 that I mentioned the design of certain leaders of the federal party to effect a dissolution of the Union, and the establishment of a Northern Confederacy. This design had been formed, in the winter of 1803-4, immediately after, and as a consequence of the acquisition of Louisiana. Its justifying causes to those who entertained it were, that the annexation of Louisiana to the Union transcended the constitutional powers of the government of the United States. That it formed in fact a new confederacy to which the States, united by the former compact, were not bound to adhere.—That it was oppressive to the interests and destructive to the influence of the Northern section of the confederacy, whose right and duty it therefore was to secede from the new body politic, and to constitute one

of their own. This plan was so far matured, that the proposal had been made to an individual to permit himself, at the proper time, to be placed at the head of the military movements, which it was foreseen would be necessary for carrying it into execution. In all this there was no overt act of treason. In the abstract theory of our government the obedience of the citizen is not due to an unconstitutional law. He may lawfully resist its execution. If a single individual undertakes this resistance, our constitutions, both of the United States and of each separate State, have provided a judiciary power, judges and juries, to decide between the individual and the legislative act, which he has resisted as unconstitutional. But let us suppose the case that legislative acts of one or more States of this Union are partly conflicting with acts of Congress and commanding the resistance of their citizens against them, and what else can be the result but war.—civil war? and is not that, *de facto*, a dissolution of the Union, so far as the resisting States are concerned? and what would be the condition of every citizen in the resisting States? Bound by the double duty of allegiance to the Union, and to the State, he would be crushed between the upper and the nether millstone, with the performance of every civic duty converted into a crime, and guilty of treason, by every act of obedience to the law.

That the power of annexing Louisiana to this Union had not been delegated to Congress, by the constitution of the United States, was my own opinion; and it is recorded upon the journals of the Senate, of which I was then a member.—But far from thinking the act itself a justifying cause for secession from the Union, I regarded it as one of the happiest events, which had occurred since the adoption of the constitution. I regretted that an accidental illness in my family, which detained me on my way to Washington to take my seat in the Senate, deprived me of the power of voting for the ratification of the treaties, by which the cession was secured. I arrived at Washington on the fourth day of the session of the Congress, and on entering the city, passed by the Secretary of the Senate, who was going from the capitol to the President's house, with the advice and consent of that body to the ratification.

I took my seat in the Senate the next day. Bills were immediately brought into Congress making appropriations to the amount of fifteen millions of dollars for carrying the convention into effect, and for enabling the President to take possession of the ceded territory.—These measures were opposed by all the members of the Senate, who had voted against the ratifications of the conventions. They were warmly and cordially supported by me. I had no doubt of the constitutional power to make the treaties. It is expressly delegated in the constitution. The power of making the stipulated payment for the cession, and of taking possession of the ceded territory, was equally unquestioned by me: they were constructive powers, but I thought them fairly incidental, and necessarily consequent upon the power to make the treaty. But the power of annexing the inhabitants of Louisiana to the Union, of conferring upon them, in a mass, all the rights, and requiring of them all the duties, of citizens of the United States, it appeared to me had not been delegated to Congress by the people of the Union, and could not have been delegated by them, without the consent of the people of Louisiana themselves. I thought they required an amendment of the constitution, and a vote of the people of Louisiana themselves; and I offered to the Senate resolutions for carrying both those measures into effect, which were rejected.

It has been recently ascertained, by a letter from Mr. Jefferson to Mr. Dunbar, written in July 1803, after he had received the treaties, and convened Congress to consider them, that in his opinion, the treaties could not be carried into effect without an amendment to the constitution; and that the proposal for such an amendment would be the first measure adopted by them, at their meeting. Yet Mr. Jefferson, President of the United States, did approve the acts of Congress, assuming the power which he had so recently thought not delegated to them, and as the Executive of the Union, carried them into execution.

Thus Mr. Jefferson, President of the U. States, the federal members of Congress, who opposed and voted against the ratification of the treaties, and myself, all concurred in the opinion that the Louisiana cession treaties transcended the constitutional powers of the government of the U. States. But it was, after all, a question of constructive power. The power of making the treaty was expressly given without limitation. The sweeping clause, by which all powers, necessary and proper for carrying into effect those expressly delegated, may be understood as unlimited.—It is to be presumed, that when Mr. Jefferson approved and executed the acts of Congress, assuming the doubtful power, he had brought his mind to acquiesce in this somewhat latitudinarian construction. I opposed it as long and as far as my opposition could avail. I acquiesced in it, after it had received the sanction of all the organized authority of the Union, and the tacit acquiescence of the people of the United States and of Louisiana. Since which time, so far as this precedent goes, and no farther, I have considered the question as irrevocably settled.

But, in reverting to the fundamental principle of all our constitutions, that obedience is not due to an unconstitutional law, and that its execution may be lawfully resisted, you must admit, that had the laws of Congress for annexing Louisiana to the Union been resisted, by the authority of one or more States of the then existing confederacy, as unconstitutional, that resistance might have been carried to

Continued on 4th page.

Correspondence between the Eastern Federalists and Mr. Adams.

Boston, Nov. 26, 1828.

To the Honorable John Quincy Adams.
SIR:—The undersigned, citizens of Massachusetts, residing in Boston and its vicinity, take the liberty of addressing you on the subject of a statement published in the National Intelligencer of the 21st of October, and which purports to have been communicated or authorized by you.

In this statement after speaking of those individuals in this State, whom the writer designates as "certain leaders of the party which had the management of the State Legislature in their hands, in the year 1808, and saying, that in the event of a civil war, he (Mr. Adams) had no doubt the leaders of the party would secure the co-operation with them of Great Britain," it is added, "That their object was, and had been for several years, a dissolution of the Union, and the establishment of a separate Confederation, he knew from unequivocal evidence, altho' not proveable in a court of law."

This, Sir, is not the expression of an opinion as to the nature and tendency of the measures at that time publicly adopted, or proposed, by the party prevailing in the State of Massachusetts. Every citizen was at liberty to form his own opinions on that subject; and we cheerfully submit the propriety of those measures to the judgment of an impartial posterity. But the sentence which we have quoted contains the assertion of a distinct fact, as one within your own knowledge. We are not permitted to consider it as the unguarded expression of irritated feelings, hastily uttered at a time of great political excitement. Twenty years have elapsed since this charge was first made, in private correspondence with certain members of Congress; and it is now deliberately repeated, and brought before the public, under the sanction of your name, as being founded on unequivocal evidence, within your knowledge.

We do not claim for ourselves, nor even for those deceased friends whose representatives join in this address, the title of leaders of any party in Massachusetts, but we were associated in politics with the party prevailing here at the period referred to in the statement above mentioned; some of us concurred in all the measures adopted by that party; and we all warmly approved and supported those measures. Many of our associates who still survive, are dispersed throughout Massachusetts and Maine, and could not easily be convened to join us on the present occasion. We trust, however, that you will not question our right, if not for ourselves alone, at least in behalf of the highly valued friends with whom we acted at that time, and especially of those of them who are now deceased, respectfully to ask from you such a full and precise statement of the facts and evidence relating to this accusation, as may enable us fairly to meet and answer it.

The object of this letter, therefore, is, to request you to state

First, Who are the persons, designated as leaders of the party prevailing in Massachusetts in the year 1808, whose object you assert, was and had been for several years, a dissolution of the Union, and the establishment of a separate Confederation? and

Secondly, The whole evidence on which that charge is founded?

It is admitted in the statement of the charge, that it is not proveable in a court of law, and of course that you are not in possession of any legal evidence by which to maintain it. The evidence however must have been such as in your opinion would have been pronounced unequivocal by upright and honorable men of discriminating minds; and we may certainly expect from your sense of justice and self-respect, a full disclosure of all that you possess.

A charge of this nature, coming as it does from the first magistrate of the nation, acquires an importance which we cannot affect to disregard; and it is one which we ought not to leave unanswered. We are therefore constrained, by a regard to our deceased friends and to our posterity, as well as by a sense of what is due to our own honor, most solemnly to declare, that we have never known nor suspected that the party which prevailed in Massachusetts in the year 1808, or any other party in this state, ever entertained the design to produce a dissolution of the Union, or the establishment of a separate Confederation. It is impossible for us in any other manner to refute, or even to answer this charge, until we see it fully and particularly stated, and know the evidence by which it is to be maintained.

The undersigned think it due to themselves to add, that in making this application to you, they have no design nor wish to produce an effect on any political party or question whatever. Neither is it their purpose to enter into a vindication or discussion of the measures publicly adopted and avowed by the persons against whom the above charge has been made. Our sole object is to draw forth all the evidence on which that charge is founded, in order that the public may judge of its application and its weight.

We are Sir, with due respect, your obedient servants,
L. G. Otis, Israel Thordike,
T. H. Perkins, William Prescott,
Daniel Sargent, John Lovell,
William Sullivan, Charles Jackson,
Warren Dutton, Benja. Pickman,
Henry Cabot,
Sons of the late George Cabot.
G. C. Parsons,
Sons of Pheochitus Parsons, Esq. dec.
Franklin Dexter,
Sons of the late Samuel Dexter.