

**THE DUKE OF
NEWCASTLE'S LETTER BY
HIS MAJESTY'S ORDER, TO
MONSIEUR MICHELL**

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The Duke of Newcastle's Letter By His Majesty's Order, to Monsieur Michell by Thomas Pelham-Holles

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THOMAS PELHAM-HOLLES

**THE DUKE OF
NEWCASTLE'S LETTER BY
HIS MAJESTY'S ORDER, TO
MONSIEUR MICHELL**

Newcastle, 7. 1753

THE
Duke of NEWCASTLE'S
LETTER,
BY
His Majesty's Order,

To Monsieur *MICHELL*, the King of
Prussia's Secretary of the Embassy, in Answer to the
Memorial, and other Papers, deliver'd, by Monsieur
MICHELL, to the Duke of NEWCASTLE, on the
23d of *November*, and 13th of *December* last.

Published by Authority.



L O N D O N:
Printed by EDWARD OWEN, in *Warwick-Lane.* 1753.



S I R,

Whitehall, Feb. 8, 1753.



LOST no Time in laying before the King, the Memorial, which you delivered to me on the 23d of *November* last, with the Papers, that accompanied it.

His Majesty found the Contents of it so extraordinary, that he would not return an Answer to it, or take any Resolution upon it, 'till he had caused both the Memorial, and the *Exposition des Motifs*, &c. which you put into my Hands soon after, by Way of Justification of what had passed at *Berlin*, to be maturely considered; and till His Majesty should thereby be enabled to set the Proceedings of the Courts of Admiralty here, in their true Light; to the End, that his *Prussian* Majesty, and the whole World, might be rightly informed of the Regularity of their Conduct; in which they appear, to have followed the only Method, which has ever been practised by Nations, where Disputes of this Nature could happen; and strictly to have conformed themselves to the Law of Nations, universally allowed to be the only Rule, in such Cases, when there is nothing stipulated to the contrary, by particular Treaties between the Parties concerned.

This

This Examination, and the full Knowledge of the Facts resulting from it, will shew, so clearly, the Irregularity of the Proceedings of those Persons, to whom this Affair was referred at *Berlin* ; that it is not doubted, from his *Prussian* Majesty's Justice and Discernment, but that he will be convinced thereof, and will revoke the Detention of the Sums assigned upon *Silesia* ; the Payment of which, his *Prussian* Majesty engaged to the Empress Queen to take upon himself, and of which the Reimbursement was an express Article in the Treaties, by which the Cession of that Dutchy was made.

I, therefore, have the King's Orders to send you the Report, made to His Majesty, upon the Papers abovementioned, by Sir *George Lee*, Judge of the Prerogative Court ; Doctor *Paul*, His Majesty's Advocate General in the Courts of Civil Law ; Sir *Dudley Ryder*, and Mr. *Murray*, His Majesty's Attorney, and Solicitor General. This Report is founded on the Principles of the Law of Nations, received and acknowledged by Authorities, of the greatest Weight, in all Countries ; so that His Majesty does not doubt, but that it will have the Effect desired.

The Points, upon which this whole Affair turns, and which are decisive, are,

First, That Affairs of this Kind are, and can be, cognizable, only in the Courts belonging to that Power, where the Seizure is made ; and, consequently, that the Erecting

Erecting foreign Courts, or Jurifdictions elfewhere, to take Cognizance thereof, is contrary to the known Practice of all Nations, in the like Cafes ; and, therefore, a Proceeding which none can admit.

Secondly, That thofe Courts, which are generally filed Courts of Admiralty, and which include both the inferior Courts, and the Courts of Appeal, always decide according to the univerfal Law of Nations only ; except in thofe Cafes, where there are particular Treaties between the Powers concerned, which have altered the Difpofitions of the Law of Nations, or deviate from them.

Thirdly, That the Decifions, in the Cafes complained of, appear, by the inclofed Report, to have been made fingly, upon the Rule prefcribed by the Law of Nations ; which Rule is clearly eftablifhed, by the conftant Practice of other Nations, and by the Authority of the greateft Men.

Fourthly, That, in the Cafe in Queftion, there cannot even be pretended to be any Treaty, that has altered this Rule, or by Virtue of which, the Parties could claim any Privileges, which the Law of Nations does not allow them.

Fifthly, That as, in the prefent Cafe, no juft Grievance can be alledged, nor the leaft Reafon given, for faying, That Juftice has been denied, when regularly demanded ; and as, in moft of the Cafes complained of, it was the Complainants themfelves, who neglected the only

proper Means of procuring it ; there cannot, consequently, be any just Cause, or Foundation, for Reprizals.

Sixthly, That, even though Reprizals might be justified by the known and general Rules of the Law of Nations ; it appears, by the Report, and indeed from Considerations, which must occur to every body, that Sums, due to the King's Subjects by the Empress Queen, and assigned by her upon *Silesia* ; of which Sums his *Prussian* Majesty took upon himself the Payment, both by the Treaty of *Breslau*, and by that of *Dresden*, in Consideration of the Cession of that Country, and which, by Virtue of that very Cession, ought to have been fully, and absolutely discharged, in the Year 1745, that is to say, one Year before any of the Facts complained of did happen ; could not, either in Justice or Reason, or according to what is the constant Practice between all the most respectable Powers, be seized, or stopt, by Way of Reprizals.

The several Facts, which are particularly mentioned above, are so clearly stated, and proved, in the inclosed Report ; that I shall not repeat the particular Reasons and Authorities alledged in Support of them, and in Justification of the Conduct and Proceedings in Question. The King is persuaded, that these Reasons will be sufficient also, to determine the Judgment of all impartial People, in the present Case.

It

It is material to observe, upon this Subject, that this Debt on *Silesia*, was contracted by the late Emperor *Charles* the Sixth; who engaged, not only to fulfil the Conditions expressed in the Contract, but even to give the Creditors such further Security, as they might afterwards reasonably ask. This Condition had been very ill performed by a Transfer of the Debt, which had put it in the Power of a Third Person to seize, and confiscate it.

You will not be surpris'd, Sir, that, in an Affair, which has so greatly alarmed the whole Nation, who are entitl'd to that Protection, which His Majesty cannot dispense with himself from granting; the King has taken Time, to have Things examin'd to the Bottom; and that His Majesty finds himself oblig'd, by the Facts, to adhere to the Justice, and Legality, of what has been done in His Courts, and not to admit the Irregular Proceedings, which have been carried on elsewhere.

The late War furnish'd many Instances, which ought to have convinc'd all *Europe*, how scrupulously the Courts here do Justice, upon such Occasions. They did not even avail themselves of an open War, to seize, or detain, the Effects of the Enemy, when it appear'd that those Effects were taken wrongfully before the War. This Circumstance must do Honour to their Proceedings; and will, at the same Time, shew, that it was as little necessary as proper, to have Recourse elsewhere to Proceedings, entirely new, and unusual.

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The King is fully persuaded, that what has passed at *Berlin*, has been occasioned, singly, by the ill-grounded Informations, which his *Prussian* Majesty has received, of these Affairs: And does not at all doubt, but that, when his *Prussian* Majesty shall see them in their true Light, his natural Disposition to Justice and Equity will induce him, immediately to rectify the Steps, which have been occasioned by those Informations; and to complete the Payment of the Debt charged on the Dutchy of *Silesia*, according to his Engagements for that Purpose.

I am, with much Consideration,

S I R,

Your most Obedient,

Humble Servant,

Holles Newcastle.